Calendar No. 828

84TH CONGRESS, 1st Session | SENATE | REPORT No. 821

GRANTING OF PERMANENT RESIDENCE TO CERTAIN ALIENS

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. KILGORE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. Con. Res. 99]

The Committee on the Judiciary, to which was referred the concurrent resolution (H. Con. Res. 99) favoring the granting of the status of permanent residence in the United States to certain aliens, having considered the same, reports favorably thereon with amendments and recommends that House Concurrent Resolution 99, as amended, do pass.

AMENDMENTS

1. On page 19, after line 20, add the following names:
   A–6903941, Dinces, Aleksander
   A–9799528, Fook, Shum Hang
   A–9708071, Hing, Chung
   A–7073962, Sipajlo, Ema
   A–7073963, Sipajlo, Josef
   A–9533332, Woo, Sueh Dao
2. On page 6, strike line 11.

PURPOSE OF THE CONCURRENT RESOLUTION

The purpose of the concurrent resolution, as amended, is to record congressional approval of the granting of the status of permanent residence in the United States to certain displaced persons whom the Attorney General has determined to be eligible for such privilege under the provisions of section 4 of the Displaced Persons Act of 1948, as amended (62 Stat. 1011; 64 Stat. 219; 50 App. U. S. C. 1953). The purpose of the amendments is to include the names of certain aliens whose names did not appear in the resolution as it passed the House of Representatives, and to strike a name which has been withdrawn by the Attorney General.

STATEMENT OF FACTS

Section 4 of the Displaced Persons Act of 1948, as amended, provides for adjustment of the immigration status in the cases of certain aliens who establish that they lawfully entered the United States as nonimmigrants under section 3 or as nonquota immigrant students under subsection (e) of section 4 of the Immigration Act of May 26, 1924, as amended. The act provides that if the Attorney General shall, upon consideration of all the facts and circumstances of each case, determine that the alien has been of good moral character for the preceding 5 years and that such alien is qualified under the provisions of said section 4 of the Displaced Persons Act of 1948, as amended, the Attorney General shall report to the Congress all of the pertinent facts in the case. If during the session of the Congress at which a case is reported or prior to the end of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the granting of the status of permanent residence to such alien, the Attorney General is authorized, upon receipt of a prescribed fee, to record the admission of the alien for permanent residence as of the date of the alien's last entry into the United States. If prior to the end of the session of the Congress next following the session at which a case is reported, the Congress does not pass such resolution, the Attorney General is required to deport such alien. The act further provides that the number of displaced persons who shall thus be granted the status of permanent residence shall not exceed 15,000. Upon the grant of status of permanent residence to an alien pursuant to said section 4, of the Displaced Persons Act of 1948, as amended, the Secretary of State shall, if the alien was a quota immigrant at the time of entry, reduce by one the immigration quota of the country of the alien's nationality as defined in section 202 of the Immigration and Nationality Act, for the fiscal year then current or the next succeeding fiscal year in which a quota number is available, except that such quota deductions shall be made within certain limitations.

Included in the concurrent resolution (H. Con. Res. 99), as it passed the House of Representatives, were 431 cases. In each case which is recommended for approval, a check has been made to determine whether or not the alien (*a*) has met the requirements of the law, (*b*) is of good moral character, and (*c*) is possessed of strong equities which would warrant the granting of the status of permanent residence.

The committee, after consideration of all the facts in each case, is of the opinion that the concurrent resolution (H. Con. Res. 99), as amended, do pass.

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Calendar No. 830

84TH CONGRESS, 1st Session | SENATE | REPORT No. 823

PROCEEDINGS AGAINST JOSEPH STAROBIN FOR CONTEMPT OF THE SENATE

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. Res. 129]

The Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws, of the Committee on the Judiciary, as created and authorized by the United States Senate by Senate Resolution 366, 81st Congress, 2d session, and Senate Resolution 172 agreed to January 27, 1954, and Senate Resolution 58 agreed to February 4, 1955, caused to be issued a subpena ad testificandum to Mr. Joseph Starobin, 51 Charles Street, New York, N. Y. The said subpena directed Joseph Starobin to be and appear before the said subcommittee on April 18, 1955, at 10:30 a. m., at committee room 135–A, Senate Office Building, Washington, D. C., then and there to testify relative to the subject matters under consideration by the subcommittee.

The said subpena was issued April 5, 1955, and is set forth as follows:

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

To Mr. JOSEPH STAROBIN,
51 Charles Street, New York, N. Y., Greeting:

Pursuant to lawful authority, you are hereby commanded to appear before the Internal Security Subcommittee of the Committee on the Judiciary of the Senate of the United States, on Monday, April 18, 1955, at 10:30 o'clock a. m., at their committee room 135–A, Senate Office Building, Washington, D. C., then and there to testify to what you may know relative to the subject matters under consideration by said subcommittee.

Hereof fail not, as you will answer your default under the pains and penalties in such case made and provided.

To Frank W. Schroeder or Edward Duffy and/or any United States marshal, to serve and return.

Given under my hand, by order of the committee, this 5th day of April, in the year of our Lord 1955.

JAMES O. EASTLAND,
Chairman, Subcommittee on Internal Security.

The said subpena was duly served, as appears by the return thereof, by Frank W. Schroeder, who was duly authorized to serve such subpena. The return of the service by the said Frank W. Schroeder, bearing his endorsement, is set forth as follows:

APRIL 6, 1955.

I made service of the within subpena by hand on the within-named Joseph Starobin, at 51 Charles Street, New York City, N. Y., at 6:10 o'clock p. m., on the 6th day of April 1955.

(Signed) FRANK W. SCHROEDER.

The said Joseph Starobin, pursuant to and in compliance with the said subpena, appeared before the said subcommittee as a witness, as required by said Senate Resolution 366, but failed and refused to answer certain questions propounded by the chairman, or by the acting chairman, or by the chief counsel of the said subcommittee, after being specifically directed to do so by the said chairman and/or acting chairman, which questions were pertinent to the subject matter under inquiry. Excerpts from the records of the hearing, held April 19, 1955 whereat Joseph Starobin appeared before the said subcommittee and thereupon refused and failed to answer the said questions as directed, are annexed hereto and made a part hereof and designated "Annex 1."

As a result of the refusal of Joseph Starobin to answer the certain questions as aforesaid pursuant to the inquiry of the said subcommittee, as appears in the aforementioned excerpts of the records annexed hereto, the said subcommittee therefore was deprived of evidence pertinent to the subject matter which, under said Senate Resolution 366, the said subcommittee was instructed to investigate and his persistent and illegal refusal to answer questions as ordered, deprived the subcommittee of necessary and pertinent evidence and places the said Joseph Starobin in contempt of the United States Senate.

ANNEX I

TESTIMONY RELATING TO JOSEPH STAROBIN

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS, OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C., Tuesday, April 19, 1955.

The subcommittee met, pursuant to recess, at 1:40 p. m., Senate Office Building, Senator Price Daniel presiding.

Present: Senators Daniel, Eastland, McClellan, and Jenner.

Also present: J. G. Sourwine, chief counsel; Alva C. Carpenter, associate counsel; Benjamin Mandel, director of research; and Robert C. McManus, professional staff member.

Senator DANIEL. The committee will come to order.

* * * * * * *

Mr. SOURWINE. Mr. Joseph Starobin.

The CHAIRMAN. Do you solemnly swear the testimony you are about to give the Internal Security Subcommittee of the Committee on the Judiciary of the Senate of the United States is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STAROBIN. I do

TESTIMONY OF JOSEPH STAROBIN, ACCOMPANIED BY LEONARD B. BOUDIN, HIS ATTORNEY

Mr. SOURWINE. Mr. Starobin, am I pronouncing your name correctly?

Mr. STAROBIN. Yes, sir.

Mr. BOUDIN. May I ask that no pictures be taken?

Mr. SOURWINE. Would you give your full name and your residence, please?

Mr. STAROBIN. What was that question, please, sir?

Mr. SOURWINE. Would you give your full name and your residence address, please.

Mr. STAROBIN. My name is Joseph Starobin and I reside at 51 Charles Street, New York City.

Mr. SOURWINE. And what is your business, sir?

Mr. STAROBIN. I am a writer and journalist.

Mr. SOURWINE. Mr. Starobin, you have been a Communist for 25 years; have you not?

Mr. STAROBIN. I will say, Mr. Sourwine, that my political views have been a matter of public record for a long time.

Mr. SOURWINE. That is right.

Mr. STAROBIN. But my party affiliations, if any, under the American system are my private affair.

Mr. SOURWINE. You have testified with regard to your Communist membership and your Communist positions, have you not?

Mr. STAROBIN. I answered the questions with respect to this phase of affairs.

Mr. SOURWINE. And I am asking you if it is not true that you have been a Communist for 25 years?

Mr. BOUDIN. May I, before the witness answers, in the form of a foundation for an objection, ask for the reason why this witness has been called.

The CHAIRMAN. Now this is an investigation, sir.

Mr. BOUDIN. Yes, sir.

The CHAIRMAN. It is not proper for the committee to give its reasons for pursuing a line of questions. Suffice to say that the reasons are good ones.

Mr. BOUDIN. May I indicate in order to object, sir, in order to object as I have a right under the decisions to the pertinence and relevance of a question or to the jurisdiction of the committee to ask it, I have to know what the committee is inquiring into.

The CHAIRMAN. Proceed, Mr. Sourwine.

Mr. SOURWINE. May I suggest to the counsel that he has no right to object. It is a privilege granted him by the committee which can be withdrawn at any time.

Mr. BOUDIN. I deny that but I will not argue with Mr. Sourwine. I am here as a matter of right.

Mr. SOURWINE. The question is, is it not true, Mr. Starobin, that you have been a Communist for 25 years?

Mr. STAROBIN. I have stated that my political views were a matter of record but my party affiliations, if any, are under the American system, my private affair.

Mr. SOURWINE. I ask that the witness be directed to answer the question.

Senator DANIEL. The witness is directed to answer the question.

Mr. STAROBIN. I will decline to answer the question on the grounds of the first amendment to the Constitution, on the grounds of the fifth amendment to the Constitution.

Senator DANIEL. What part of the fifth amendment are you referring to? State the objection if you will, please, sir, fully.

Mr. STAROBIN. The fifth amendment says, and I quote: "No person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury except in cases arising in the land or naval force or in the militia when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or brought without due process of law nor shall private property be taken for public use without just compensation."

Senator DANIEL. Is your refusal based upon that part of the fifth amendment which says that no person shall be required to be a witness against himself?

Mr. STAROBIN. It is the same—it says, nor shall "be compelled in any criminal case to be a witness against himself."

Senator DANIEL. That is what I mean.

Mr. STAROBIN. Yes.

Senator DANIEL. Is that the basis of your refusal?

Mr. STAROBIN. I take it on that ground.

Senator DANIEL. On those grounds?

Mr. STAROBIN. I do, Senator.

Mr. SOURWINE. Mr. Chairman, inasmuch as this witness has testified under oath in court in public session to his membership in the Communist Party, to the fact that he joined the Communist League, the Young Communist League in 1930, and to numerous other facts with regard to his membership, I contend that he has long ago waived his privilege with respect to this question. I ask that he be directed to answer the question.

Senator DANIEL. I want to confer with members of the committee.

Mr. SOURWINE. I have the court record here, if the committee would like to have it.

Mr. BOUDIN. Would the chairman care to hear my statement in answer to Mr. Sourwine?

Senator DANIEL. No; I am about ready to direct the witness to answer the question. In view of the fact that you have answered the question previously, that you have been a member of the Communist Party, I think that you have waived any right to claim the privilege now and I order and direct you to answer the question.

Mr. BOUDIN. Mr. Chairman——

Senator DANIEL. Just a moment.

Mr. BOUDIN. I just want to call your attention to a court decision directly contrary to your ruling. I am not afraid of your ruling.

Senator DANIEL. If you are not afraid of the ruling, let the witness answer the question, that is all.

Mr. BOUDIN. Very well.

Mr. STAROBIN. I will stand on my statement that I claim the right of the first amendment and of the appropriate clause of the fifth amendment to the Constitution in declining to answer your question.

Senator DANIEL. Now after the Chair has ordered you to answer the question with your full knowledge, if the Chair is correct in his ruling that you may be subject to contempt of this committee, you again refuse to answer the question, is that correct?

Mr. STAROBIN. I can only claim the protection of the Constitution against this type of procedure.

Senator DANIEL. I just want to make the matter clear that you have been warned, that if the Chair is correct, you may be in contempt of this committee. After having been warned of that, do you again refuse to answer the question on the grounds stated?

Mr. STAROBIN. Yes, of course I will, Mr. Senator.

Mr. BOUDIN. Will the chairman allow me to make a one-sentence statement?

Senator DANIEL. No, sir.

Mr. SOURWINE. Mr. Starobin, are you the Joseph Starobin who testified in August 1949 in the case of the *United States of America* v. *Eugene Dennis and others?*

Mr. BOUDIN. In October——

Senator DANIEL. Just a minute, counsel. Your counsel has already held his hand in front of your face signifying that you should not speak and I want to say to the counsel that is not proper procedure.

Mr. BOUDIN. How can I object, Senator?

Senator DANIEL. Just a moment. When you were here representing an earlier witness, I tried to caution you on that. The witness has the right to refer to his counsel, or at least the privilege that we have granted here, and to consult the counsel, but the counsel will not by any means indicate to the witness not to answer or that the witness should consult him. It is a matter up to the witness. Therefore, I will ask the counsel to observe the rules that I cautioned him about earlier. Now the witness will proceed to answer the question.

Mr. BOUDIN. May I state an objection? If a question seems to me to be objectionable, I do not care what the witness thinks about. I am going to object as his counsel. I am not guided by his views as to——

Senator DANIEL. Senator McClellan and I, acting as chairman of this subcommittee today, have been very lenient and patient with you in allowing you to state objections.

Mr. BOUDIN. Yes.

Senator DANIEL. But if you continue to state objections that you know that this committee has already passed on, you are simply wasting the time of the com-

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mittee; you are interrupting the witness on an answer which he may otherwise give and therefore, I want to caution the counsel. I will let you state the objection which you now have but, as I said before, we are not going to let you take advantage of the committee on these objections. Now state your objection briefly.

Mr. BOUDIN. No. Senator, I am sorry but I am not going to state my objection at all if that is what you are saying. I am here as a matter of right, but if you tell me I have taken advantage of the committee, I would rather remain silent if you think that is correct.

Senator DANIEL. I said if you take advantage of the committee——

Mr. BOUDIN. I have not done so and I resent the suggestion that I have.

Senator DANIEL. We will proceed.

Mr. STAROBIN. What was your question?

Mr. SOURWINE. The question is, are you the same Joseph Starobin who testified in August of 1949 in the case of *United States of America* v. *Eugene Dennis and others?*

Mr. STAROBIN. Now, I am going to decline to go into any matters pertaining to past testimony or to writings or to what may be alleged to be activities, and I am going to ask the counsel to ask me what it is that this committee has on the agenda today that he wants me here for?

Mr. SOURWINE. I ask that the witness be instructed——

The CHAIRMAN. You are instructed and ordered to answer the question, sir. It is a perfectly proper question.

Mr. STAROBIN. I am going to decline to answer that on the grounds of the first and the fifth amendments.

Mr. SOURWINE. I ask that the witness be ordered, notwithstanding his claim of privilege, to answer the question.

The CHAIRMAN. You are ordered regardless of the claim of privilege to answer that question, sir.

Mr. STAROBIN. I have already stated my position and I will repeat it, that I decline to answer such questions on the ground of the first amendment and the appropriate clause of the fifth amendment.

Mr. SOURWINE. Mr. Chairman, I dislike to burden this record, but since it is obviously impossible to secure any answers from the witness about this testimony, I ask that the testimony of Joseph Starobin in the case which I have mentioned be ordered inserted in small type in the record of this proceeding.

Senator DANIEL. It is so ordered.

Mr. SOURWINE. Mr. Starobin, is it true that you joined the Young Communist League in 1930 at the age of 17?

Mr. STAROBIN. Mr. Chairman, I am going to repeat that I decline to go into past testimony, activities, allegations of affiliations, writings that do not seem to me to pertain to my present activity and I will do so on the grounds of the protection of the first amendment and of the fifth amendment to the Constitution.

Mr. SOURWINE. Mr. Chairman, I ask that the witness, notwithstanding his claim of privilege, be ordered to answer the question.

Senator DANIEL. You are ordered and directed to answer the question.

Mr. STAROBIN. I respectfully decline on the grounds already stated.

Mr. SOURWINE. Were you, Mr. Starobin, a member of the Communist Political Association in 1944 and 1945 and of the Communist Party before and after that?

Mr. STAROBIN. Mr. Counsel, I have already stated that I am not going to go into this area of subject matter.

Mr. SOURWINE. You have stated, Mr. Starobin, that you are not going to answer questions——

Mr. STAROBIN. Excuse me, you are interrupting me.

Mr. SOURWINE. I am interrupting you, sir, for the purpose of clarifying the record.

Mr. STAROBIN. I would like to finish.

Mr. SOURWINE. You have stated that you would not answer questions in areas which you considered not pertinent to your present activities. I have no idea what you consider pertinent to your present activities. I will proceed to ask the questions on the subjects with respect to which the committee wants answers, and if you wish to claim your constitutional privilege, you may do so.

The question is: Were you a member of the Communist Political Association in 1944 and 1945 and of the Communist Party before and after that?

Mr. STAROBIN. I respectfully decline to answer this question on the grounds of the first amendment and the appropriate clause of the fifth amendment to the Constitution.

Senator DANIEL. You are ordered and directed to answer the question, regardless of the claim of privilege that you have just stated.

Mr. STAROBIN. I respectfully maintain my previous answer, sir.

Mr. SOURWINE. Are you the same Starobin who wrote articles for the Daily Worker under the byline of Hans Berger, based on information received from Gerhard Eisler?

Mr. STAROBIN. I must say it seems to me to be very far afield but I will decline once again to answer on the constitutional protections which I believe that I as a citizen should uphold.

Mr. SOURWINE. Mr. Chairman, I ask that the witness be ordered to answer the question.

Senator DANIEL. You are ordered and directed to answer the question.

Mr. STAROBIN. I respectfully decline on the same grounds, Senator.

Mr. SOURWINE. Mr. Chairman, I ask that there be inserted in the record at this point, an excerpt from testimony before the House Un-American Activities Committee, November 22, 1946, consisting of four paragraphs.

Senator DANIEL. The excerpt will be made a part of the record.

Mr. SOURWINE. Mr. Starobin, how much in total have you contributed or loaned to Cameron & Kahn, a corporation in the publishing business in New York City?

Mr. STAROBIN. I made an advance of $1,950 to the publishing firm of Cameron & Kahn.

Mr. SOURWINE. When did you make that advance?

Mr. STAROBIN. In April and May of last year. I believe I completed sometime in May of last year in connection with the publication of my book, Eyewitness in Indo-China.

Mr. SOURWINE. Did you give them the money all at one time?

Mr. STAROBIN. To the best of my recollection. I believe I gave the money in installments.

Mr. SOURWINE. Did you give them the sum of $500 prior to May 14, 1954?

Mr. STAROBIN. To the best of my recollection, I did.

Mr. SOURWINE. Did you give them $300 on May 14, 1954?

Mr. STAROBIN. To the best of my recollection, I did.

Mr. SOURWINE. $100 on May 19, 1954?

Mr. STAROBIN. To the best of my recollection, I did.

Mr. SOURWINE. $50 on or about May 25, 1954?

Mr. STAROBIN. To the best of my recollection, I did.

Mr. SOURWINE. Now can you tell us from your memory, or from memorandum now available to you, other amounts that you gave them and dates on which you gave them such amounts?

Mr. STAROBIN. To the best of my recollection, I promised them and did give them in the period of April and May of 1954 in connection with the publication of my book, a total of $1,950.

Mr. SOURWINE. Yes. The question was, whether you can tell us any specific amounts and dates on which you gave them those amounts other than the ones concerning which you have already testified.

Mr. STAROBIN. I would have to refresh my recollection with the receipts which I have for those amounts in my personal custody.

Mr. SOURWINE. Well, now, let me point out that the sums to which you have testified add up to $950, that you have said that you gave them $1,950. That leaves open the possibility that you may have given them $1,000 at some time. Did you?

Mr. STAROBIN. I did, either in the form of a thousand-dollar payment or in some fraction, some proportion thereof.

Mr. SOURWINE. Do you know which it was?

Mr. STAROBIN. I would have to refresh myself with the receipts in my custody.

Mr. SOURWINE. Did you give them all these sums in cash?

Mr. STAROBIN. To the best of my recollection, I did.

Mr. SOURWINE. You did not give them any checks?

Mr. STAROBIN. To the best of my recollection, I did not.

Mr. SOURWINE. Now was this under agreement that you were to pay for the cost of publishing your book, or part of that cost?

Mr. STAROBIN. This was under agreement that I was to contribute to the cost of the publication of this book.

Mr. SOURWINE. Were you to be repaid your contributions at a later date?

Mr. STAROBIN. I was.

Mr. SOURWINE. Was that to be in addition to the royalties on the book, or as a part of the payment of royalties?

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Mr. STAROBIN. That was under a separate agreement. I think it was called an exchange, in which repayment was to be made of that capital investment apart from the payment of the royalties for the book.

Mr. SOURWINE. Have you been repaid any of that money?

Mr. STAROBIN. I have been.

Mr. SOURWINE. How much of it?

Mr. STAROBIN. I have been repaid about $1,000 of it.

Mr. SOURWINE. If you were told that the books of Cameron & Kahn showed receipts from you of only $950, would that make any difference in your testimony?

Mr. STAROBIN. Well, I have receipts for the full sum of $1,950.

Mr SOURWINE. Very good, sir. Would you produce those receipts for the committee?

Mr. STAROBIN. I can do so but I am not able to do so at present.

Mr. SOURWINE. Mr. Chairman, may the witness be instructed to furnish those receipts for the committee at the earliest possible date?

Senator DANIEL. You are so instructed and you will furnish them, will you not, sir?

Mr. STAROBIN. I will try to, sir.

Mr. SOURWINE. And may it be ordered that the receipts, themselves, be inserted in the record at this point when they are received?

Senator DANIEL. The receipts will be so inserted.

Mr. SOURWINE. Did you receive from Cameron & Kahn in repayment of the money previously paid by you the sum of $125 on June 8, 1954?

Mr. STAROBIN. To the best of my recollection, I did.

Mr. SOURWINE. The sum of $125 on or about June 14?

Mr. STAROBIN. To the best of my recollection; yes.

Mr. SOURWINE. The sum of $196.48 about July 22?

Mr. STAROBIN. That may very well be; yes.

Mr. SOURWINE. The sum of $100 about August 26?

Mr. STAROBIN. That may very well be.

Mr. SOURWINE. The sum of $250 about September 8?

Mr. STAROBIN. That may very well be.

Mr. SOURWINE. When you say that may very well be, do you mean that you received these amounts, or that you have no memory about it at all?

Mr. STAROBIN. Well, I have a record of these amounts received.

Mr. SOURWINE. You do have a record of the amounts received?

Mr. STAROBIN. Yes.

Mr. SOURWINE. Will you furnish the committee with that record?

Mr. STAROBIN. I will be glad to do so at an appropriate time.

Mr. SOURWINE. So that the record may be clear, may the witness be instructed to furnish that record of amounts received from Cameron & Kahn?

Senator DANIEL. The witness is so instructed and they will be made part of the record.

Mr. STAROBIN. I will try to do so, sir.

The CHAIRMAN. You say you will try to?

Did you say you would or you would try to?

Mr. STAROBIN. I am going to make every effort to do so, whether in fact I am able to by the time the committee wants it is, of course, a question of the future.

The CHAIRMAN. That is all right, sir.

Mr. SOURWINE. Mr. Starobin, were these amounts received by you from Cameron & Kahn all paid to you in cash?

Mr. STAROBIN. My recollection is that many of them were paid in checks.

Mr. SOURWINE. In checks. Now would they be checks drawn to your order, on Cameron & Kahn's bank and signed by Mr. Cameron or Mr. Kahn, or both?

Mr STAROBIN. I have no recollection of that detail, sir.

Mr. SOURWINE. Do you remember the details with respect to any checks that you got from Cameron & Kahn?

Mr. STAROBIN. I have a recollection of the sums that you have read.

Mr. SOURWINE. But you do not remember on what bank or how signed, or who was the payee?

Mr. STAROBIN. I am afraid not. No, I do not.

Mr. SOURWINE. This amount of $196.48 rather clearly was a check instead of cash, wouldn't you think?

Mr. STAROBIN. If I may say so, sir, I am prepared to bring my records instead of relying on my recollection.

Mr. SOURWINE. All right. Now where did you get the money which you gave Cameron & Kahn?

Mr. STAROBIN. I think I will consult with counsel on that.
(The witness consulted with counsel.)
Mr. STAROBIN. I borrowed that money from five friends in this country.
Mr. SOURWINE. Who were they?
Mr. STAROBIN. I will decline to answer that question and I will not disclose the confidence that these people showed in me in advancing me these sums.
Mr. SOURWINE. I ask that the witness be ordered to answer.
Senator DANIEL. You are ordered and directed to answer the question, sir.
Mr. STAROBIN. I will decline to do so on the grounds of the first and the fifth amendments to the Constitution.
Mr. SOURWINE. Neither the first nor the fifth amendments has anything to do with divulging the names of friends, does it, Mr. Starobin?
Mr. STAROBIN. I consider that the Constitution protects me in the confidence that other people have shown in me and I do not find that this is a realm of inquiry that can possibly affect your judgment of the book or any aspect of that problem.
Mr. BOUDIN. May I suggest that counsel's argument with the witness not be had.
Senator DANIEL. Just a minute, Counsel. Did you—did the people from whom you received this money know for what purpose you were to use the money?
Mr. STAROBIN. I cannot say that they knew the precise purpose except that I told them that I was going to publish a book, and asked them to advance me these sums.
Senator DANIEL. You told them what the book was?
Mr. STAROBIN. I may have. I may not have.
Senator DANIEL. And you told them that you needed the money to advance to the publisher of the book?
Mr. STAROBIN. That is right, sir.
Senator DANIEL. I am going to order and direct you to answer the question that Mr. Sourwine has asked you as to the names of these parties.
Mr. STAROBIN. Will Mr. Sourwine repeat the question?
Mr. SOURWINE. Yes. The question is. Who are the five persons who advanced to you, from whom you borrowed the money you gave to Cameron & Kahn?
Mr. STAROBIN. I decline to answer that on the grounds of the first and the fifth amendments.
Mr. SOURWINE. Technically, Mr. Chairman, I believe that is a new question declined. I ask that the witness be ordered to answer the question.
Senator DANIEL. You are ordered and directed to answer the question.
Mr. STAROBIN. I shall have to decline on the same grounds, Senator.
Mr. SOURWINE. Did anyone ever furnish to you or offer or promise to furnish to you any of the money which you gave to Cameron & Kahn?
Mr. BOUDIN. Could that be repeated?
Mr. SOURWINE. Yes. I am asking, aside from these five friends from whom you borrowed money, did anyone ever offer to you or furnish to you or offer or promise to furnish to you the money or any part of the money that you gave to Cameron & Kahn?
Mr. STAROBIN. Aside from these five friends, wasn't that your original question?
Mr. SOURWINE. Aside from the five friends whose names you have refused to divulge.
Mr. STAROBIN. Not to my recollection.
Mr. SOURWINE. Where do you bank, Mr. Starobin?
Mr. STAROBIN. At the Amalgamated Bank.
Mr. SOURWINE. Do you have other bank accounts?
Mr. STAROBIN. New York.
Mr. SOURWINE. At any other banks?
(The witness consults counsel.)
Mr. STAROBIN. I do have a bank account in the Lloyd's Provincial & Foreign Limited Bank of Geneva, Switzerland.
Mr. SOURWINE. Do you have any other bank accounts beyond the two that you have testified of?
Mr. STAROBIN. No.
Mr. SOURWINE. When you received the money from your five friends, did you get it in cash in your instance?
Mr. STAROBIN. I should think that most of it came in cash. I do not have a recollection of any check transactions there.
Mr. SOURWINE. Did you clear it through your bank account, or did you take that cash and give it directly to Cameron & Kahn?

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Mr. STAROBIN. You are pressing my recollection now. I believe that at least the largest part of it was given directly to Cameron & Kahn. Now there may have been a deposit for exchange. That is possible.

Mr. SOURWINE. With respect to the sums which you received in cash from any friends and which you took directly and gave to Cameron & Kahn, were you, in fact, making advances for your own account or were you only acting as intermediary?

Mr. STAROBIN. I have acted as an intermediary for nobody on this transaction with Cameron & Kahn.

Mr. SOURWINE. When you received money from Cameron & Kahn, did you deposit it in your bank?

Mr. STAROBIN. I should say in many cases I did, yes.

Mr. SOURWINE. When you received checks from them did you deposit the checks to your account?

Mr. STAROBIN. In most cases, I did, but I have a recollection of sending perhaps one of these checks to one of my creditors who had engaged in this advance of funds to me.

Mr. SOURWINE. Who was that creditor?

Mr. STAROBIN. I am going to decline to answer that, Counselor, on the same basis as I stated before.

Mr. SOURWINE. On what ground?

Mr. STAROBIN. On the grounds that I consider this infringes my rights under the first and the appropriate clause of the fifth amendments.

Mr. SOURWINE. In view of the witness' prior statement that indicated he was doing this to save embarrassment of his friends, I ask that he be directed and ordered to answer the question.

Senator DANIEL. You are ordered and directed to answer the question.

Mr. STAROBIN. What was your question, sir?

Senator DANIEL. You are ordered and directed to answer the question Mr. Sourwine put to you.

Mr. STAROBIN. I do not think that I said that I had ever entered into this arrangement or declined to answer the question on the grounds of sparing my friends embarrassment. I simply declined on the grounds that I did not think this was the proper area of questioning.

Mr. SOURWINE. You still decline?

Mr. STAROBIN. I do on the same ground, on the ground of the first and the fifth amendment to the Constitution.

Mr. SOURWINE. Mr. Starobin, what have been your sources of income since 1942?

(Witness consults counsel.)

Mr. STAROBIN. I am sorry, but I am afraid that I feel that is another way of asking the question that I have already declined to answer and so I will decline this on the grounds of the first and fifth amendments.

Mr. SOURWINE. Money you borrow from a friend is not income and cannot be included within the question that I just asked you. Do you understand that?

Mr. STAROBIN. Well, but you asked me what my source of income was without reference to this particular matter.

Mr. SOURWINE. Money that you borrow is not income. Therefore, no money that you received as a loan would be included in your answer.

Mr. STAROBIN. I am well aware of that but I have declined to answer the question with respect to the source of my income since, whatever date it was that you asked, sir.

Mr. SOURWINE. How much have you earned approximately each year since 1942?

Mr. STAROBIN. I am afraid I will decline to answer that until I can refresh my memory. I am not sure that I could answer that 1, 2, 3 that way.

Mr. SOURWINE. Are you paid a salary?

Mr. STAROBIN. At present I am not.

Mr. SOURWINE. Have you in the last 15 years been paid a salary?

(Witness confers with counsel.)

Mr. STAROBIN. I have within the last 15 years been paid a salary.

Mr. SOURWINE. And from whom did you receive that salary?

Mr. STAROBIN. I am going to decline to go into that, sir, on the grounds already stated.

Mr. SOURWINE. On the grounds of what?

Mr. STAROBIN. On the grounds already stated.

Senator DANIEL. State your grounds as I have heretofore said. I think the record should show exactly what your grounds are.

Mr. STAROBIN. Yes, I think you are right, Senator. I am sorry. I will decline to go into the sources of my income or who paid me that income on the grounds of the protection afforded me by the first and the clauses in the fifth amendment.

Mr. SOURWINE. Has any part of your income come from the Communist Party?

Mr. STAROBIN I will decline to answer that question on the grounds of the protections afforded me by the first and fifth amendments.

Mr. SOURWINE. Mr. Starobin, has any of your income come from Soviet sources? That is, Soviet Russian sources.

Mr. STAROBIN. I will decline to go into that, sir on the grounds of the first and the fifth amendments.

Mr. SOURWINE. Have you ever referred to yourself as a small-business man?

Mr. STAROBIN. Not to my knowledge sir.

Mr. SOURWINE. Do you consider yourself a small-business man?

Mr. BOUDIN. I object on the grounds it seems totally irrelevant to Mr. Matusow.

Senator DANIEL. Objection overruled. Proceed.

Mr. STAROBIN. I do not consider myself a small-business man.

Mr. SOURWINE. Mr. Starobin, have you reported all your income and the source thereof on your income-tax returns each year as required by law?

Mr. STAROBIN. I have and I believe I have so sworn in making out those income-tax blanks.

Mr. SOURWINE. Have any of your books and articles been published in Communist countries?

Mr. STAROBIN. Just a moment, sir.

(The witness confers with counsel.)

Mr. STAROBIN. I will decline to answer that on the ground of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Have you received royalties from Communist countries?

Mr. STAROBIN. I will take the same stand that I decline to answer on the grounds of the first and fifth amendments.

Mr. SOURWINE. Mr. Starobin, in connection with your book, Eyewitness in Indochina, did you visit Indochina?

Mr. STAROBIN. Well, sir, I am going to decline to go into the area of my travels which have been very extensive, on the grounds that I do not think they have any relevance to the inquiry as I understand it.

The CHAIRMAN. You are ordered to answer the question.

Mr. STAROBIN. I am going to decline to go into that on the grounds of the first and fifth amendments.

Mr. SOURWINE. In your book, Eyewitness in Indochina, you stated you had visited Indochina, did you not?

Senator JENNER. What is he, another Matusow?

Mr. STAROBIN. Yes, I am going to decline to go into the subject matter of this book at this particular forum on the grounds of the first and fifth amendments.

Mr. SOURWINE. Are you the author of the book Eyewitness in Indochina?

Mr. STAROBIN. I am.

Mr. SOURWINE. Mr. Starobin, assuming that what you stated in that book is true, and that you did visit Indochina, I ask you who paid your expense for that visit?

Mr. STAROBIN. I should say, sir, I would be glad to debate this question at any appropriate forum outside of this committee.

The CHAIRMAN. Answer the question.

Mr. STAROBIN. But I am not going to go into this subject matter with this committee at this time and I will assert my privilege under the first and the fifth amendments.

Senator DANIEL. Are you sincere in your opinion and honestly stating to this committee you believe a truthful answer to that question may tend to incriminate you or may be giving evidence against yourself?

Mr. STAROBIN. The Constitution tells me I cannot be compelled in any criminal case to be a witness against myself.

Senator DANIEL. That is exactly what I am asking you. Do you sincerely state to this committee that you fear that a truthful answer to that question may be interpreted as giving testimony against yourself?

Mr. STAROBIN. Well, it is not a matter of fear, sir. It is a question of law as I understand it, and if it were a matter of my personal fears, it would be very simple. I am prepared to argue about these or any other questions anywhere.

Senator DANIEL. I am not asking for any argument. The answer is to test your sincerity and be sure that is your reason for claiming protection under the fifth amendment.

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Mr. STAROBIN. I am sincerely claiming protection under the first and fifth amendments.

Senator DANIEL. Were you given safe conduct behind the lines of the Communists in Indochina?

Mr. STAROBIN. I will decline to answer that, sir; on the grounds that I have already stated, and I do not see that we can——

Mr. SOURWINE. Have you read the book, Eyewitness in Indochina?

(Witness confers with counsel.)

Mr. STAROBIN. Yes, I have read the book.

Mr. SOURWINE. Does not that book state that the author was behind the lines of the Communist Armies in Indochina?

Mr. STAROBIN. I am going to decline to go into the contents of the book or the circumstances of the book, sir; and I invite all of the committee members to take a copy of the book if they wish, but I am not going to answer any questions along these lines, sir, on the grounds of the first and fifth amendments.

Mr. SOURWINE. Mr. Chairman, I suggest to the committee that the witness at this time in connection with this question is improperly claiming a privilege under the fifth amendment. I ask that he be directed to answer the question.

Senator DANIEL. You are hereby ordered and directed to answer the question, again with the warning that if you are not correct in claiming the privilege that you may be in contempt of the committee.

Mr. STAROBIN. I will respectfully decline, sir.

Mr. SOURWINE. Were you, Mr. Starobin, ever a representative of the Cominform?

Mr. BOUDIN. I object on the grounds it is irrelevant to whether or not——

The CHAIRMAN. Wait just a minute, now; we have ruled on those things.

Mr. BOUDIN. You have not ruled on this question at all.

The CHAIRMAN. Mr. Attorney, now listen. Keep quiet. Answer the question.

Mr. BOUDIN. I state my objection.

The CHAIRMAN. We do not want to hear your objection.

Mr. STAROBIN. After I protest the line of questioning that counsel has so deliberately taken, since it is so obviously out of this world, I will decline to answer it on the grounds to the first and the fifth amendments.

The CHAIRMAN. That is not a proper claim of the privilege. I order and direct you to answer that question. Repeat the question, Mr. Reporter.

Go ahead, Mr. Sourwine.

Mr. SOURWINE. Were you ever a representative of the Cominform?

Mr. STAROBIN. I will decline to answer that question or anything similar to it under the protections afforded me by the first and fifth amendments.

Mr. SOURWINE. Is it not true that you visited Indochina and China as a representative of the Information Bureau of Workers and the Communist Parties?

Mr. STAROBIN. I want to protest the line that the counsel is taking with respect to an American citizen whose record is absolutely public in this country.

The CHAIRMAN. Answer the question.

Mr. STAROBIN. And I will decline to answer that question on the grounds of the first and fifth amendments.

Mr. SOURWINE. Mr. Starobin, is your record with respect to representation of the Cominform a matter of public record?

Mr. STAROBIN. I did not answer your question, sir, and I resent the twist that you give to my answer.

Mr. SOURWINE. I thought you said that you were an American citizen whose record with respect to these matters was a matter of public record.

Mr. STAROBIN. That is right, and that is why I reject and resent questions that put me in the position of appearing to be or said to be a representative of the Cominform or anything of that kind, sir.

Mr. SOURWINE. Are you denying that you are?

Mr. STAROBIN. I have taken the privilege and repeat the privilege with respect to your question.

Mr. SOURWINE. Is there any public record anywhere in the United States or any other country which shows that you are not or that you have ever denied being a representative of the Cominform?

Mr. STAROBIN. I have stated at the outset, sir, that my activities, my beliefs are a matter of public knowledge over a period of some time. I have declined to go into questions on the ground that they are my private affair. I am not going to answer questions of this kind and I respectfully submit that I will take the privilege of the first and fifth amendments on that question.

Mr. SOURWINE. Do you think that it is a private matter, or a matter of belief whether an American citizen is a representative of the Cominform?

Mr. STAROBIN. I am going to claim the same privilege on that question, sir. I think it speaks for itself.

Mr. SOURWINE. Mr. Starobin, have you ever received funds from anybody for a foreign purpose from Moscow?

Mr. STAROBIN. While resenting the implications of that question, I will decline to answer it on the grounds of the first and fifth amendments.

Mr. SOURWINE. Mr. Starobin, were you in 1948 appointed secretary of the United States Communist Party's Peace Committee?

Mr. STAROBIN. Will you repeat the question, sir?

Mr. SOURWINE. Were you, in 1948, appointed secretary of the United States Communist Party's Peace Committee?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Mr. Starobin, you have stated that you would not answer questions with regard to your travels, is that right?

Mr. BOUDIN. Could I have that repeated?

Mr. SOURWINE. You have stated that you would not answer questions with regard to your travels, is that right?

Mr. STAROBIN. Would you repeat the question and answer in which I have so stated, sir?

Mr. SOURWINE. I will start fresh if you don't remember. Did you, in 1946, travel in France, England, Yugoslavia, Italy, Colombia, and Venezuela?

Mr. STAROBIN. I will decline to answer that question with respect to those travels if any, sir, on the grounds of the first and fifth amendments.

Mr. SOURWINE. In connection with your article in Political Affairs for March 1947 on the Brazilian elections, did you visit Brazil?

Mr. STAROBIN. I will take the same stand in that regard, sir, under the first and fifth amendments.

Mr. SOURWINE. In connection with your article on the Inter-American Conference and Political Affairs for October 1947, did you visit Latin America?

Mr. STAROBIN. I will respectfully decline to go into that, sir, on the grounds of the first and fifth amendments.

Mr. SOURWINE. In 1948, did you visit Brazil, Italy, Hungary, Germany, France, Greece, Poland, Czechoslovakia, and England?

Mr. STAROBIN. Excuse me, sir.

(Witness consults with counsel.)

Mr. STAROBIN. I will also take the same stand, sir, the first and fifth amendments.

Mr. SOURWINE. In 1949 did you visit Costa Rica and Europe?

Mr. STAROBIN. I will take the same position, sir, that the committee has no right to go into these matters under the first and fifth amendments.

Mr. SOURWINE. Mr. Chairman, if a United States citizen is visiting all these countries as a representative of the Cominform, on an American passport, I think this committee certainly has the right to——

Mr. STAROBIN. I reject and resent any such implications, sir.

Mr. SOURWINE. Do you deny it?

Mr. STAROBIN. I am prepared to debate or discuss in any forum any of my activities, sir.

The CHAIRMAN. Then answer him.

Mr. STAROBIN. I do not think this is the province of this committee.

The CHAIRMAN. Then answer the question, sir.

Mr. STAROBIN. I have declined to do so on the grounds of the first and fifth amendments and I will take that stand again, sir.

Mr. SOURWINE. Did you, in 1950, visit Warsaw, make a tour of Poland, visit the Second World Conference in October and visit Latin America?

Mr. STAROBIN. I decline to answer that.

Mr. SOURWINE Did you, in 1951, visit Switzerland, the Berlin movement, the U. S. S. R., Denmark, and France?

Mr. STAROBIN. I will decline to go into that on the grounds of the first and fifth amendments.

Mr. SOURWINE. Did you, in 1952, visit China, the Peiping Peace Conference, in France, and in December the World Peace Conference in Vienna, arriving there from Czechoslovakia?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments.

Mr. SOURWINE. Did you, in 1953, visit China, visit Vietnam, Indochina, and Western Europe, arriving in Amsterdam in August 1953, en route to the United States?

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Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments.

Mr. SOURWINE. Was your passport taken up by the State Department in August of 1953?

Mr. STAROBIN. It was, sir.

Mr. SOURWINE. Mr. Starobin, do you know a person named Max——

Mr. STAROBIN. Pardon me, sir.

Mr. SOURWINE. Do you know a person named Max, a representative of the Young Communist International?

Mr. STAROBIN. I am not going to go into any of my associates, before this committee, acquaintances, passing contacts, knowledge of people, or anything else. Obviously, having traveled abroad as a correspondent for many years, I have met a great many people but I am not going to go into this subject matter here within the confines of this committee. I decline to answer that on the grounds of the first and fifth amendments.

Mr. BOUDIN. I object to the question as well. May I state an objection if you do not mind.

Mr. SOURWINE. I ask that the witness be ordered to answer the question.

Mr. BOUDIN. May I state an objection?

The CHAIRMAN. Wait just a minute.

Mr. BOUDIN. I have been waiting.

The CHAIRMAN. You are ordered and instructed to answer the question, Mr. Starobin.

Mr. BOUDIN. May I state an objection, Mr. Chairman?

The CHAIRMAN. You can state an objection if it is brief.

Mr. BOUDIN. It will be very brief. The question is irrelevant and immaterial and beyond the jurisdiction of the committee.

The CHAIRMAN. That is overruled. Now answer the question.

Mr. STAROBIN. I will respectfully decline on the grounds of the first and the fifth amendments.

Mr. SOURWINE. Is it your intention, similarly, to decline all questions with respect to persons whom you may know?

Mr. STAROBIN. I think it would be best if we take your question one by one. sir.

Mr. SOURWINE. Do you know Gerhard Eisler, representative of the Communist International?

Mr. STAROBIN. I will decline to answer that, sir, on the grounds of the first and fifth amendments.

Mr. SOURWINE. Do you know Lombardo Toledano, a Communist trade-union leader in Mexico?

Mr. STAROBIN. I will decline to answer that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Carlos Prestes, leader of the Communist Party in Brazil?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Mr. Vishinsky, the former Soviet Foreign Minister?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Mr. M. Manuelski, the former head of the Communist International?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Ho Chi-minh, the Communist President of Indochina?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Feng Yu-Hsiang, Chinese general in——

Mr. STAROBIN. Let me have that again, sir.

Mr. SOURWINE. Feng Yu-Hsiang. I am not at all sure of my pronunciation.

Mr. STAROBIN. And the man is dead many years, but I will decline to go into that on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know any Guiseppi de Vittorio, Italian Communist leader?

Mr. STAROBIN. I will decline to go into that on the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know a man named Juergen, a German, and Communist leader?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendment to the Constitution.

Mr. SOURWINE. Do you know a man named Kuczynski, a German Communist leader?

Mr. STAROBIN. I will decline, sir, to go into that on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. As a matter of fact, don't you know that the name is Juergen Kuczynski, and didn't you make some comment about it when I asked you about the name of Juergen?

Mr. STAROBIN. Pardon me. I made no such comment, sir.

Mr. SOURWINE. Do you know Albert Norden, a German Communist leader?

Mr. STAROBIN. Will you repeat that, sir?

Mr. SOURWINE. Albert Norden.

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Jacques Duclos, a French Communist leader?

Mr. STAROBIN. I will decline to go into that on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know any Communist leaders in Greece?

Mr. STAROBIN. I will decline to go into that, sir, on the privileges afforded me by the first and fifth amendments to the Constitution.

Mr. SOURWINE. Do you know Matthias Rakosi, a Hungarian Communist leader?

Mr. STAROBIN. I will decline to go into that, sir, on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. I have one final question. You were given when you arrived here a memorandum respecting certain associations and activities of yours with a note indicating that you would be asked to produce the memorandum and to state whether there was anything there that you wanted to testify was in error or factually inaccurate.

Mr. STAROBIN. I have no comment to make on that, sir.

Mr. SOURWINE. You have no comment to make on that memorandum?

Mr. STAROBIN. That is right.

Mr. SOURWINE. Mr. Starobin, do you know Anita Willcox?

Mr. STAROBIN. I will decline to answer that on the grounds of the first and fifth amendments to the Constitution.

Mr. SOURWINE. Mr. Chairman, may the list which I now hand the chairman, being a compilation indicating the source of the information that the witness does in fact know each of these Communist leaders concerning whom I questioned him, be placed in the record at this point.

The CHAIRMAN. It will be made part of the record at this point.

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Calendar No. 831

84TH CONGRESS, 1st Session | SENATE | REPORT No. 824

PROCEEDINGS AGAINST HARRY SACHER FOR CONTEMPT OF THE SENATE

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. Res 130]

The Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary, as created and authorized by the United States Senate by Senate Resolution 366, 81st Congress, 2d session, and Senate Resolution 172 agreed to January 27, 1954, and Senate Resolution agreed to February 4, 1955, caused to be issued a subpena as testificundum to Mr. Harry Sacher, 342 Madison Avenue, New York, N. Y. The said subpena directed Harry Sacher to be and appear before the said subcommittee on April 18, 1955, at 10:30 p. m., at committee room 135-A, Senate Office Building, Washington, D. C., then and there to testify relative to the subject matters under consideration by the subcommittee.

The said subpena was issued April 5, 1955, and is set forth as follows:

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

To MR. HARRY SACHER, *342 Madison Avenue, New York, N. Y., Greeting:*

Pursuant to lawful authority, you are hereby commanded to appear before the Internal Security Subcommittee of the Committee on the Judiciary of the Senate of the United States, on Monday, April 18, 1955, at 10:30 a. m., at their committee room 135-A, Senate Office Building, Washington, D. C., then and there to testify to what you may know relative to the subject matters under consideration by said subcommittee.

Hereof fail not, as you will answer your default under the pains and penalties in such case made and provided.

To Frank W. Schroeder or Edward Duffy and/or any United States marshal to serve and return.

Given under my hand, by order of the committee, this 5th day of April, in the year of our Lord one thousand nine hundred and fifty-five.

JAMES O. EASTLAND,
Chairman, Subcommittee on Internal Security.

The said subpena was duly served, as appears by the return thereof, by James Guff, deputy United States marshall, Second District of New York, who was duly authorized to serve such subpena. The return of the service by the said James Guff, bearing his endorsement, is set forth as follows:

Received this writ at New York, N. Y., on April 7, 1955, and on April 12, 1955, at 342 Madison Avenue, New York, N. Y., I served it on the within-named Harry Sacher by leaving a copy thereof or a subpena ticket with him.

THOMAS J. LUNNEY,
United States Marshal, Second District of New York.
By JAMES GUFF,
Deputy United States Marshal, Second District of New York.

The said Harry Sacher, pursuant to and in compliance with the said subpena, appeared before the said subcommittee as a witness, as required by said Senate Resolution 366, but failed and refused to answer certain questions propounded by the chairman, or by the acting chairman, or by the chief counsel of the said subcommittee, after being specifically directed to do so by the said chairman and/or acting chairman, which questions were pertinent to the subject matter under inquiry. Excerpts from the records of the hearing, held April 19, 1955, whereat Harry Sacher appeared before the said subcommittee and thereupon refused and failed to answer the said questions as directed, are annexed hereto and made a part hereof and designated "Annex 1."

As a result of the refusal of Harry Sacher to answer the certain questions as aforesaid pursuant to the inquiry of the said subcommittee, as appears in the aforementioned excerpts of the records annexed hereto, the said subcommittee therefore was deprived of evidence pertinent to the subject matter which, under said Senate Resolution 366, the said subcommittee was instructed to investigate and his persistent and illegal refusal to answer questions as ordered, deprived the subcommittee of necessary and pertinent evidence and places the said Harry Sacher in contempt of the United States Senate.

ANNEX I

TESTIMONY RELATING TO HARRY SACHER

UNITED STATES SENATE, SUBCOMMITTEE
TO INVESTIGATE THE ADMINISTRATION
OF THE INTERNAL SECURITY ACT AND
OTHER INTERNAL SECURITY LAWS,
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C., Tuesday, April 19, 1955.

The subcommittee met, pursuant to recess, at 10:35 a. m., Senate Office Building, Senator John L. McClellan, presiding.

Present: Senators McClellan and Jenner.

Also present: J. G. Sourwine, chief counsel; Alva C. Carpenter, associate counsel; Benjamin Mandell, director of research; and Robert C. McManus, professional staff member.

Senator MCCLELLAN. The committee will come to order.

* * * * * * *

Senator McCLELLAN. The committee will come to order. Proceed Mr. Counsel.

* * * * * * *

Mr. SOURWINE. Mr. Harry Sacher.

Senator McCLELLAN. All right, Mr. Sacher, will you be sworn? Do you solemnly swear that the evidence you shall give before this Internal Security Subcommittee of the Committee on the Judiciary in the course of this investigation shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SACHER. I do.

Senator McCLELLAN. Proceed.

TESTIMONY OF HARRY SACHER, ATTORNEY, NEW ROCHELLE, N. Y.

Mr. SOURWINE. Will you give your name and your present home address, please?

Mr. SACHER. Harry Sacher, 111 Taymil Road, New Rochelle, N. Y.

Mr. SOURWINE. You are a lawyer, are you?

Mr. SACHER. I am.

Mr. SOURWINE. And where are your legal offices?

Mr. SACHER. My law offices are at 342 Madison Avenue, New York City.

Mr. SOURWINE. Do you practice alone or in partnership?

Mr. SACHER. I practice alone.

Mr. SOURWINE. Do you have any associates in your office?

Mr. SACHER. Well, there are lawyers in the suite. They are not my associates in the practice of the law. They occupy space in the same suite where I have my offices.

Mr. SOURWINE. Who are those attorneys, sir?

Mr. SACHER. Mr. Frank Donner——

Mr. SOURWINE. Pardon my interruption. Do you object to having pictures taken during your testimony?

Mr. SACHER. No; provided they are good looking. I have no objection to them.

Senator McCLELLAN. The Chair would prefer that the pictures if you want to take them, get them over with right away, because it does interfere with our concentration here. Proceed to make a few and——

Mr. SACHER. Do you want me to continue with the list? I have given you the first.

Mr. SOURWINE. Please.

Mr. SACHER. Mr. Frank Donner, Mr. Marshall Perlin, Mr. Arthur Kinoy, Mr. Milton Friedman.

Mr. SOURWINE. Are any of those lawyers hired by you, employed by you?

Mr. SACHER. No; they are not.

Mr. SOURWINE. In what way, Mr. Sacher, have you been associated with the defense of Communist cases?

Mr. SACHER. I do not understand your question.

Mr. SOURWINE. Do you know what I mean by Communist cases?

Mr. SACHER. No, sir; I do not know what you mean.

Mr. SOURWINE. Have you been associated in the defense of prominent members of the Communist Party, United States of America?

Mr. SACHER. Mr. Chairman, may I inquire as to the purpose of this type of inquiry? I have no desire to invoke any privileges of any kind, but it does seem to me that unless these inquiries are related to some legislative purpose, that the inquiry is improper. I am a member of the bar of the State of New York and of the Supreme Court of the United States in good standing and I defend and prosecute cases which are brought to me and which I choose to defend or prosecute. Now it seems to me that it can hardly be of national importance whom I defend or whom I represent, and certainly it hardly seems related to a legislative purpose, and I would, therefore, object to that question on the ground that it is not a pertinent inquiry in regard to any matters that appear at the moment at least to be within the jurisdiction of the subcommittee or the committee.

Senator McCLELLAN. Restate the question, Mr. Counsel.

Mr. SOURWINE. In what way have you been associated with the defense of Communist cases?

Senator McCLELLAN. The Chair thinks you can answer that. It would seem that either you have been associated with them or you have not as counsel.

Mr. SACHER. I do not know what Communist cases are.

Senator McCLELLAN. You have the right, of course, to practice law.

Mr. SACHER. Of course I have and I think I have a right not to be called to account anywhere for the cases that I have participated in, and I think that it is impertinent in the legal sense. Of course, I am not speaking in any other sense, in the sense of not being pertinent to any legislative purpose to inquire whom or where I have defended or participated in cases.

Mr. SOURWINE. Mr. Sacher, the primary purpose of the question is to identify you—if it is true—as of counsel in certain prominent cases which have involved leaders of the Communist Party.

Mr. SACHER. I object to the question on the ground that no lawyer is identified on the basis of the cases in which he appears professionally. If that is the basis of the inquiry, Mr. Chairman, I respectfully submit it is not relevant or pertinent.

Mr. SOURWINE. In what other way does an attorney acquire a reputation?

Mr. SACHER. I do not know what you are talking about, and now you are debating with me and I submit I do not want to debate with counsel for the committee.

Mr. SOURWINE. I will rephrase the question.

Senator MCCLELLAN. Let us see if we can work this out, Mr. Counsel. You ask him regarding specific cases in which he may have appeared in court in a particular given case.

Mr. SOURWINE. Did you appear in Judge Medina's court in a trial which involved certain leaders of the Communist Party, United States of America, as counsel for the defense?

Senator MCCLELLAN. Now you may answer that.

Mr. SOURWINE. That is a matter of record.

Mr. SACHER. Of course it is a matter of record and that is an added ground on which I decline to answer, Mr. Chairman.

There is no occasion for the Congress of the United States to call a lawyer before it to inquire in what cases he has participated, particularly when it is a matter of public record as to what case he participates in.

Senator MCCLELLAN. The Chair will order you to answer it. There is no reason why we have to send up there and get the public record and have it certified to when you are available and can testify. Certainly there would be no objection from the standpoint of background. You are not ashamed of it?

Mr. SACHER. Mr. Chairman——

Senator MCCLELLAN. There is no reason why you cannot answer the question. The Chair orders you to answer the question.

Mr. SACHER. Mr. Chairman, I am ashamed of nothing I have done, either professionally or in my private life, but that is no reason why I should be brought to Washington to testify about it. Unless it is relevant and pertinent to some legislative purpose, I must respectfully decline to answer the question, and I should like to ask of the Chair what legislative purpose do you state is being served by my answer to this inquiry?

Senator MCCLELLAN. Well the Chair does not necessarily feel called upon to give you all the information that you may desire. This committee is constituted to perform a function for the Congress and for the country, primarily with respect to national security, and the Chair holds that any question may be asked you regarding anything associated with the subversive elements in this country, if there are such, is a pertinent question and it is pertinent to this inquiry. It is the duty of every American citizen to answer such questions when so interrogated under oath before this committee unless he wants to avail himself of the privilege of the fifth amendment of the Constitution. So the Chair will direct you to answer the question.

Mr. SACHER. Mr. Chairman, permit me to say this: That I think that an inquiry to any member of the bar concerning cases in which he has participated carries with it implicitly the notion that attorneys are accountable to the legislative branch of the Government for the cases they handle, and I respectfully submit, Mr. Chairman, that if I decline to answer, you will realize that I decline not out of any disrepect to this committee or any wish to subvert its process, because a declination on my part will not subvert anything that this committee aims to do because, as both of us have observed, my participation in the cases, or at least the case that is being spoken of, is a matter of public record. But I do feel, and I appeal to you as a lawyer, Mr. Chairman, to give thought to the proposition that this may create a bad precedent from the point of view of the freedom of advocacies in our country. In other words, I submit to you, Mr. Chairman, that I think you should take under advisement the wisdom of calling a lawyer before you to state whether or not he has participated in certain cases. I do not think it is wise to do it, I do not think it is in consonance with our notions

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of an independent bar, and I respectfully submit that a lawyer ought to be as immune from accountability for the cases in which he participates as a Member of Congress is for his utterances on the floor of the House, either of the Senate or of the House of Representatives.

Senator McCLELLAN. The question that has been propounded to you is a preliminary question as a matter of background leading into further inquiry. The Chair has already stated his position. The Chair orders you to answer the question.

Mr. SACHER. All right, I will answer the question and state that I did participate in the case in question.

Senator McCLELLAN. All right, proceed, Mr. Counsel.

Mr. SOURWINE. Mr. Sacher, do you know Harvey Matusow?

Mr. SACHER. I know him in the sense that I met him for the first time in my life 2 days before he took the stand as a witness in support of a motion for a new trial which I was to try in the case of *United States* v. *Flynn, and others*, before Judge Dimock in the United States District Court for the Southern District of New York.

Mr. SOURWINE. What contact have you had with him?

Mr. SACHER. My contacts consisted, as I recall it, of the following: I think that I first met him on February 8, 1955. I believe that is the day. I think I saw him on the 8th of February and on the 9th of February, and then I saw him on succeeding days during which the hearing was being conducted before Judge Dimock, my recollection being that the first date of open court hearing on the motion I am speaking of was February 10, 1955.

Mr. SOURWINE. Did you ever give him any documents?

Mr. SACHER. Did I ever give him documents?

Mr. SOURWINE. Yes.

Mr. SACHER. No, I did not.

Mr. SOURWINE. Did you ever give him any papers or other material?

Mr. SACHER. No, not a thing.

Mr. SOURWINE. Did he ever give you any documents?

Mr. SACHER. He did.

Mr. SOURWINE. What documents did he give you?

Mr. SACHER. He gave me a 75-page report, that is a copy of a 75-page report, that he had given to various agencies of Government, including the Federal Bureau of Investigation and the House Committee on Un-American Activities in the fall of 1951 or the winter of 1951. The report I refer to bore the date of October 19, I believe, 1951. It was offered in evidence, the report I speak of was offered in evidence by me as defendant's exhibit B before Judge Dimock.

Mr. SOURWINE. Mr. Chairman, I may say this document is in our record. Proceed.

Mr. SACHER. May I interrupt myself?

Senator McCLELLAN. Has it been made a part of the hearing?

Mr. SOURWINE. It has been.

Mr. SACHER. May I interrupt myself at this point. Mr. Chairman, to say the following: That it occurs to me again that this is an impropriety, how gross I do not intend to say, but I submit there is an impropriety in calling me, calling counsel in the case which Mr. Sourwine mentions which is pending undetermined under Judge Dimock at the present time. to testify concerning that case here. Now it seems to me that if there is any matter in connection with the prosecution of that motion which is deserving of scrutiny, that it ought to be submitted to Judge Dimock in the first instance. This seems to me like a flagrant disregard of the separation of powers. After all, this motion for a new trial is of primary concern to Judge Dimock. He now has that under consideration before him. He has my briefs and the United States attorneys' briefs.

Senator McCLELLAN. The Chair may say to the witness we are not going into that case as such, of course. The primary purpose of this testimony is to establish a relationship or contacts you have had with Mr. Matusow, whom this committee is investigating as to the questions relating to that, not necessarily to a case in which you are appearing as counsel.

Mr. SACHER. Mr. Chairman, my sole relationship with Matusow is limited to the case in question, *U. S.* v. *Flynn et al*, and I submit that anything else you may ask me about I would not know anything about.

Senator McCLELLAND. That is your statement?

Mr. SACHER. And I am making it under oath.

Senator McCLELLAND. That is your statement and you are making it under oath but you are subject to cross-examination on it, and that is what the committee is proceeding to do. Proceed, Mr. Counsel.

Mr. SACHER. Well, then, I submit, Mr. Chairman, that I think a foundation should be laid, if I may be so bold as to use a bit of legal terminology here, a foundation ought to be laid here for the propriety of the inquiry that is being made.

Senator MCCLELLAN. The foundation has already been laid in previous hearings for the testimony that we are seeking to adduce this morning, and if you will be a little more cooperative, we can get this disposed of pretty soon. The question, as I told you a moment ago, was primarily for background information and you are going to be asked now some specific questions.

Mr. SACHER. Mr. Chairman, may I say this: I do not think that you intended to imply that I was uncooperative, but I have no desire to do anything but two things here: One is to answer what I honestly believe is properly asked of me, and second, to see to it that so far at least as I am concerned, that nothing of the rights, privileges, or immunities of attorneys and counsellors-at-law are violated in this hearing.

Now certainly you cannot regard that as obstructive.

Senator MCCLELLAN. We will try to not violate that. You have not been asked any questions regarding your case except that which is a matter of record, public record.

Mr. SACHER. No, he is asking me about things which are not of public record.

Senator MCCLELLAN. He is asking you about associations and contacts with Mr. Matusow. You may proceed, Mr. Counsel. I think it is quite proper.

Mr. SOURWINE. Mr. Sacher, I may suggest that your suggestion that the proceedings here would prejudice the case in Judge Dimock's court constitute an unjustified reflection upon——

Mr. SACHER. Now that is not true. I did not say anything about the proceedings here affecting Judge Dimock's judgment. I think that judge is independent enough not to be troubled by what happens here and that was not the basis of my objection at all.

Senator MCCLELLAN. We are not trying to try the case.

Mr. SACHER. All right, but I do not think it is fair to say that I suggested here in any way that the proceedings before Judge Dimock would be prejudiced by virtue of anything that was interrogated about here.

Senator MCCLELLAN. If that inference was drawn and you say that was not the intention, you did not intend to imply that, we will proceed with that understanding.

Mr. SOURWINE. Mr. Sacher, the question is with regard to documents which you gave Matusow or he gave you. You said you had given him none, that he had given you some and you named one.

Mr. SACHER. That is right.

Mr. SOURWINE. Did he give you any others?

Mr. SACHER. Yes, he did.

Mr. SOURWINE. Will you tell us about them?

Mr. SACHER. He gave me, in addition to this defendant's exhibit B some sheets of paper which bore the names of a number of people. I do not know the exact number. But these sheets of paper were part of, maybe 28 sheets which he turned in to the FBI, and which I think were received in evidence before Judge Dimock as defendant's exhibit M

Mr. SOURWINE. These documents, Mr. Chairman, will be offered for our record at a later time.

Go ahead Any others?

Mr. SACHER. In addition, he also gave me a diary, that is, these were loose sheets, the first sheet of which was dated, I believe, sometime in 1948, and my present recollection is that the next sheet in this group of sheets was dated sometime in 1950, and then there was a group of sheets running fairly consecutively from, I believe it was, sometime in December 1951, to the end of April 1952.

Now that is this diary that I am speaking of, and portions of it were introduced into evidence before Judge Dimock as defendant's exhibit A-1 to, I believe, something like 3, 4, or 5. I do not recall.

Mr. SOURWINE. This document, Mr. Chairman, will be identified by Mr. Matusow for our record when he appears before us.

Any others, sir?

Mr. SACHER. Well, there were other pieces of paper that he gave me. There were, what he called "Q and A" sheets used in the preparation of his testimony before the SACB in one or more cases that he was a witness in before that body, and my recollection is that those sheets were offered in evidence but not received. They were marked for identification. My recollection is those were defendant's exhibits E, F, and G for identification.

Mr. SOURWINE. Any others?

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Mr. SACHER. In addition there was a list of books or pamphlets which I think was exhibit H, defendant's exhibit H, either for identification or in evidence, which he had, he said, furnished to the United States attorney in the course of his preparation as a witness in the Flynn case. Now there may have been other pieces of paper which, at the moment, I do not recall.

Mr. SOURWINE. That is all you remember?

Mr. SACHER. But I think those are the main papers in any event.

Mr. SOURWINE. Those are all you know of now, all that you now recall?

Mr. SACHER. Those are all I presently recall.

Mr. SOURWINE. Did Mr. Matusow give you an affidavit made by him?

Mr. SACHER. Not me, not me

Mr. SOURWINE. Do you know to whom he gave that affidavit?

Mr. SACHER. I do not. I was here in Washington at the time that affidavit was executed and delivered, and I do not know of my own knowledge nor do I even know by hearsay as to whom precisely he delivered it to.

Mr. SOURWINE. Now, by that affidavit, do you mean an affidavit which he gave recanting certain testimony he had given in the Flynn case?

Mr. SACHER. That is what I understood you to refer to.

Mr. SOURWINE. Did you ever at any time discuss with Mr. Witt the matters of that affidavit?

Mr. SACHER. I did not.

Mr. SOURWINE. At no time?

Mr. SACHER. No, sir, not prior to its execution. I may have spoken to him subsequently in the course of the hearing of the motion because he was interested in the hearing before Judge Dimock as counsel for Jencks, and he was in court and I may have had conversations with him about it.

Mr. SOURWINE. Did you have anything to do with the phrasing or writing of the affidavit, Mr. Sacher?

Mr. SACHER. Nothing. I had nothing to do with it.

Mr. SOURWINE. Did you have anything to do with the procuring of the affidavit?

Mr. SACHER. I had not a thing to do with it.

Mr. SOURWINE. Do you know with whom among defense counsel that matter was discussed on behalf of Mr. Matusow or by Mr. Matusow?

Mr. SACHER. I do not. I should say by way of explanation that I was engaged in a trial right here in the District of Columbia before Judge Schweinhaut from January 10 to February 3, inclusive, and only got to my home on weekends and so that I had my hands full here in the District and other people took care of what had to be done in New York.

Mr. SOURWINE. Mr. Sacher, have you defended Gus Hall, a Communist leader and bail jumper?

Mr. SACHER. I defended Gus Hall, period.

Mr. SOURWINE. Mr. Sacher, have you ever served a prison sentence?

Mr. Chairman, is that question related to some legislative purpose I wonder?

Senator MCCLELLAN. The Chair will hear counsel. I was not just certain what the purpose of it was.

Mr. SOURWINE. Mr. Chairman, among the measures under consideration by this committee is proposed legislation for the purpose of fixing additional standards with respect to the practice of law in the Federal Courts. Among the suggestions for inclusion in such legislation is a suggestion which would prohibit members of the Communist Party from practicing in Federal courts. It is germane to the consideration of such legislation to inquire into the circumstances involving the practice of law in Federal court by persons who are Communists and by persons who are defending Communists. I believe that the inquiries made here and other inquiries which have been made and will be made in this Matusow case have bearing upon that legislative problem now pending before the committee.

Mr. SACHER. I would like to be heard, Mr. Chairman, if I may.

Senator MCCLELLAN. The Chair thinks that you should lay a foundation for that first by asking the witness if he is a member of the Communist Party, if he has ever been, and so forth.

Mr. SACHER. Mr. Chairman, may I be heard, please?

Senator MCCLELLAN. Briefly.

Mr. SACHER. Mr. Chairman, my understanding, when I came here, was as given to me by those who served the subpena to me, that I was going to be interrogated concerning the Matusow recantation. I believe, and I say this with as much of a sense of responsibility as 30 years of practice at the bar have given me, that I have established rather conclusively by evidence other than

Matusow's own recantation before Judge Dimock, that he lied and lied outrageously at the Flynn trial, and I should like the opportunity before I leave the stand today to file with your committee, Mr. Chairman, copies of the briefs that I filed with Judge Dimock and copies of some 13 exhibits that I prepared to demonstrate the falsity of Matusow's testimony at the Flynn trial. The suggestion that my political beliefs or associations are to be inquired into seems to me to be diversionary in character. I maintain that Matusow lied and that, if this committee wants to know how our judicial procedures may be improved, let them wait until Judge Dimock passes judgment on everything that transpired before him. Let there not be here made an attempt to prejudice the determination not only by Judge Dimock, but by the people of the United States as to whether or not Matusow lied when he testified at the Flynn trial. Now I submit, Mr. Chairman, that this—if I may say so—that this is doing a disservice to the administration of justice.

Senator McCLELLAN. That is what we are trying to find out. Now let us proceed, Mr. Counsel, and ask the proper questions to lay the foundation for this.

Mr. SOURWINE. Are you, Mr. Sacher, a member of the Communist Party, U. S. A.?

Mr. SACHER. Mr. Chairman, I have been called here because of my representation of the defendants in *United States* v. *Flynn* on a motion for a new trial on the ground that Harvey Matusow committed perjury in their trial. I have answered and am prepared to answer all questions concerning my participation in that case. I refuse, I refuse categorically, Mr. Chairman, to discuss my beliefs, religious, political, economic, or social. I do not do so on the ground of the fifth amendment. I do so because it is inconsistent with the dignity of any man to be compelled to disclose his political, religious, economic, social, or any other views. And I respectfully submit that an inquiry to me concerning this matter is not pertinent to anything with which this committee is concerned, and is not relevant to any inquiry that may properly be made of me. And I therefore decline on the ground that I cannot with any regard for my own self-respect, do otherwise, Mr. Chairman.

Senator McCLELLAN. Well, the Chair does not think that it is beneath the dignity of a good citizen of the United States to answer a question as to whether he is a member of an organization that seeks the overthrow of this Government by force and violence, and therefore, the Chair propounds to you now the question, Are you now a member of the Communist Party of the United States?

Mr. SACHER. Mr. Chairman, medieval inquisitors also thought there was no impropriety in asking those whom they regarded as heretics to answer the question.

Senator McCLELLAN. The Chair does not care for a lecture. The Chair asked you a question.

Mr. SACHER. And I decline to answer that question, Mr. Chairman.

Senator McCLELLAN. The Chair orders you to answer the question.

Mr. SACHER. I decline to answer that question on the grounds I have already stated.

Senator McCLELLAN. The Chair asks you another question. Have you ever been a member of the Communist Party of the United States?

Mr. SACHER. I respectfully submit, Mr. Chairman, that my conscience dictates to me that I shall not, under your compulsion or anybody else's compulsion, make any disclosure of any of my beliefs, political, religious, economic, or social, past or present, and I decline to answer your question.

Senator McCLELLAN. The Chair orders you to answer the question.

Mr. SACHER. I respectfully decline to answer it.

Senator McCLELLAN. The Chair asks you another question. Have you ever been a member of any organization, Communist Party or by any other name, that advocates and seeks the overthrow of the Government of the United States by force and violence?

Mr. SACHER. I will state to the Chair that I have never been a member of any organization which I believed to be a teacher or advocate of the forcible or violent overthrow of the Government of the United States.

Senator McCLELLAN. All right. You may proceed.

Mr. SOURWINE. Have you ever served a prison sentence?

Mr. SACHER. I have, sir. I am sure that that will be most illuminating for the legislative purposes that the committee has in mind.

Mr. SOURWINE. What was that sentence for?

Mr. SACHER. I was sentenced for contempt of court.

Mr. SOURWINE. Have you ever been disbarred?

Mr. SACHER. No, sir.

Mr. SOURWINE. Have you ever been ordered disbarred?

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Mr. SACHER. An order was made but was reversed by the Supreme Court of the United States. You see, Mr. Chairman, counsel is not interested in eliciting the truth. He is interested in smearing me, and so although he knows that the Supreme Court of the United States reversed my disbarment, he asks me only whether I was disbarred, and I respectfully submit it is unworthy of the great functions of a Senate investigating committee to do that.

Senator MCCLELLAN. The Chair thinks you have a perfect right to make that explanation.

Mr. SACHER. I beg your pardon?

Senator MCCLELLAN. The Chair thinks you have a perfect right to make that explanation, sir.

Mr. SACHER. Thank you, Mr. Chairman. Thank you.

Senator MCCLELLAN. Proceed.

Mr. SOURWINE. Did you, Mr. Sacher, ever attend a gathering of leaders of the Communist Party, U. S. A.?

Mr. SACHER. Well, I defended leaders of the Communist Party of the United States of America in *United States* v. *Dennis*, and I imagine I must have attended such meetings, certainly. That is what you do when you defend clients, Mr. Counsel. You meet with them occasionally.

Mr. SOURWINE. Did you ever attend a gathering of leaders of the Communist Party who were not your clients?

Mr. SACHER. I am not aware of it.

Mr. SOURWINE. Did you attend a birthday party for Alex Bittleman in January 1950?

Mr. SACHER. I do not remember.

Mr. SOURWINE. Did you attend a birthday party for Alex Bittleman in January 1950 in the board room at the Communist headquarters on the 9th floor in New York?

Mr. SACHER. I don't remember. I should say to you, Mr. Counsel, that you are speaking of a period when the Dennis case was in full progress, and I cannot say whether I was in a building where a birthday party may or may not have been taking place at the time.

Mr. SOURWINE. Did you attend a birthday party for Alex Bittleman at which Henry Winston proposed a toast, "Comrades, let's drink a toast to Alex?"

Mr. SACHER. I have no recollection of that.

Mr. SOURWINE. Do you have any connection with the legal commission or law commission of the Communist Party?

Mr. SACHER. I do not know of any such organization, so I cannot say anything about it.

Mr. SOURWINE. Are you now or have you ever been a member of the lawyers' section of the Communist Party, U. S. A.?

Mr. SACHER. Mr. Chairman, I have declined before and I decline again——

Senator MCCLELLAN. You are ordered to answer the question.

Mr. SACHER. On the grounds that I have already stated so I needn't take the time of the committee, and I reemphasize that there is nothing in the purposes of the committee or the Congress which comprehends the validity, the pertinence, or the relevance of an inquiry to me concerning my political beliefs or affiliations. I respectfully decline to answer that question.

Senator MCCLELLAN. May I say to you I have great respect for the law profession. I have tried to practice a little law myself. But when we come to the security of our country, an organization that is dedicated obviously to subversive purposes as an objective, I think it becomes the duty of the Congress of the United States and also the duty of the executive branch of the Government to try to ferret these things out and expose them if they relate directly to the national security—associations at some time and the knowledge may help the Congress or help other officials of the Government to preserve national security. For that reason the Chair thinks that the question is proper and directs you to answer it.

Mr. SACHER. Mr. Chairman, I respectfully say to you that, without any desire to be immodest, I think that in the defense of those that have been charged under the Smith Act or under the Internal Security Act of 1950, I have acted in the best traditions of the profession by defending the rights of people to speak, to publish, to meet under the first amendment.

Senator MCCLELLAN. This question was not related to your defending anyone in court. The question was related to your being present or being a member of a group of lawyers, presumably, ostensibly from the question—I do not know what the answer is—dedicated to the Communist Party.

Mr. SACHER. Mr. Chairman, for 30 years I have practiced law in the State o New York and elsewhere in the United States, and I think again, without being subject to the charge of being immodest, that I have done a yeoman's share of the work that had to be done on behalf of the working men and women of our country. And I feel that my life is a living testimonial to what I am and to what I have done for my country and I respectfully submit it is a late time of the day for me to have to appear before anybody, after 30 years of honorable practice, to testify to my loyalty to the democratic institutions of the United States, and I unswervingly and unhesitatingly tell you my devotion is to the best interests of my country. And I believe that I am serving those interests when I refuse to bend the knee to an inquiry concerning my innermost thoughts and beliefs, whether they be on politics, religion, or anything else. My conscience dictates to me that I shall not, under compulsion, answer today any more than John Freeborn Lilliburne answered in the 1640's to the Court of Star Chamber and on the same grounds, Mr. Chairman, on the grounds that it is incompatible with the dignity of the individual to make compulsory disclosure of his thoughts and his ideas and his beliefs. I must respectfully decline to answer that question.

Senator MCCLELLAN. You have a right to decline, of course, if you wish to invoke your constitutional privilege.

Mr. SACHER. I am invoking my rights as a man and my dignity as a man and I am not invoking any privileges against self incrimination. I have never done anything and I pledge you, Mr. Chairman, I shall never do anything which, so far as I can help will expose me to any criminal charges.

And I say to you that I speak, not from fear of incrimination or prosecution. I speak only from the dictates of conscience. And I ask all Americans to join me in resisting inquiries of this kind, for when the day comes when Americans will resist inquiries of this kind, we shall once again witness a restoration of those liberties which we so long enjoyed prior to the advent of the suppression of them.

Senator MCCLELLAN. Now you have made your speech. You are ordered to answer the question.

Mr. SACHER. I respectfully decline, Mr. Chairman.

Senator MCCLELLAN. All right, proceed, Mr. Counsel.

Mr. SOURWINE. Mr. Chairman, may I ask that the witness be ordered to answer that question?

Senator MCCLELLAN. I ordered the witness to answer the question. He declined. The record so shows. Proceed.

Mr. SOURWINE. Did you ever attend a Communist meeting at the home of Angus Cameron?

Mr. SACHER. I don't think I have ever been at the home of Angus Cameron, that is, at least I have no recollection of having been at his home.

Mr. SOURWINE. Did you, on November 22, 1947, attend a Communist meeting at the home of Angus Cameron at which time there was present besides yourself, one Anne Burlak, B-u-r-l-a-k, a district organizer for the Communist Party?

Mr. SACHER. I do not think I know who Anne Burlak is. I really don't.

Mr. SOURWINE. Now, answer the question, please.

Mr. SACHER. I can't. I don't know who you are talking about. How can I answer it?

Mr. SOURWINE. Did you on November 22, 1947, attend a Communist meeting at the home of Angus Cameron?

Mr. SACHER. I do not know. I certainly did not attend any Communist meeting but I do not know whether I was ever at Mr. Cameron's home. Where was that?

Mr. SOURWINE. In Boston, sir.

Mr. SACHER. I have a recollection of being at Mr. Cameron's home once, I think in Boston.

Mr. SOURWINE. Was that on or about November 22, 1947?

Mr. SACHER. I have no recollection, not only of the month or the day, but even the year. I have no recollection.

Mr. SOURWINE. Do you say categorically that you never attended a Communist meeting at Mr. Cameron's home?

Mr. SACHER. I was at Mr. Cameron's home. I don't know what meeting took place there, whether it was Communist or not.

Mr. SOURWINE. Mr. Chairman, to save time I ask that there may be inserted in the record at this point a tabulation prepared by the Legislative Reference Service of the Library of Congress of citations to Harry Sacher appearing in the New York Times index.

Mr. SACHER. May I see a copy of that before you act on it, Mr. Chairman?

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Mr. SOURWINE. I have no other questions of this witness.

Senator MCCLELLAN. The Chair will take this document under advisement for the present. I do not know what the document contains, myself.

Mr. SACHER. Mr. Chairman, may I ask you to be good enough to receive in evidence copies of the brief which I filed with Judge Dimock and copies of exhibits which I submitted with the brief to demonstrate that Matusow testified falsely in the Flynn trial?

Senator MCCLELLAN. You may submit your documents. They will be referred to the committee for inspection and for such proper use of them as the committee thinks is advisable.

Mr. Sacher. Thank you. May I hand them to you, Mr. Chairman?

Senator MCCLELLAN. You may, yes, sir. Lay them right down on the table. We will get them, all right. All right. Are there any other questions, Mr. Sourwine?

Mr. SOURWINE. I have no more questions of this witness.

Senator MCCLELLAN. You are excused, Mr. Sacher.

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Calendar No. 832

84TH CONGRESS, 1st Session } SENATE { REPORT No. 825

PROCEEDINGS AGAINST HARVEY M. MATUSOW FOR CONTEMPT OF THE SENATE

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. Res. 131]

The Subcommittee to Investigate the Administration of the Internal Security Act, and Other Internal Security Laws, of the Committee on the Judiciary, as created and authorized by the United States Senate by Senate Resolution 366, 81st Congress, 2d session, and Senate Resolution 172 agreed to January 27, 1954, and Senate Resolution 49 agreed to February 4, 1955, caused to be issued a subpena ad testificundum to Harvey M. Matusow of New York, N. Y. The said subpena directed Harvey M. Matusow to be and appear before the said subcommittee on February 21, 1955, at 1 a.m. at their committee room 130B, Senate Office Building, Washington, D. C., then and there to testify relative to the subject matters under consideration by said subcommittee.

The said subpena was issued February 14, 1955, and is set forth as follows:

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

To Mr. HARVEY MATUSOW, *Hotel Dauphin, B'way and 67th St., N. Y. C., Greeting:*

Pursuant to lawful authority, you are hereby commanded to appear before the Internal Security Subcommittee of the Committee on the Judiciary of the Senate of the United States, on Monday, February 21, 1955, at 1:00 o'clock p. m., at their committee room 130-B, Senate Office Building, Washington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said committee, and produce then and there, before said subcommittee, all correspondence, contracts, manuscripts, or other papers or records dealing with or concerning the research for, preparation of, consideration of, sale of, publication of, and distribution of the book "False Witness", by Harvey Matusow, or concerning any other contracts or negotiations or dealings of any sort relative to this book, which are in your possession or custody or under your control.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To Louis R. Colombo to serve and return.

Given under my hand, by order of the committee, this 14th day of February, in the year of our Lord one thousand nine hundred and fifty-five.

JAMES O. EASTLAND,
Chairman, Subcommittee on Internal Security.

The said subpena was duly served, as appears by the return thereof, by Louis R. Colombo, who was duly authorized to serve such subpena. The return of the service by the said Louis R. Colombo, bearing his endorsement, is set forth as follows:

FEBRUARY 14, 1955.

I made service of the within subpena by giving in hand the within-named Mr. Harvey Matusow, at Foley Square, New York City at 4:20 o'clock p. m., on the 14th day of February, 1955.

LOUIS R. COLOMBO.

The said Harvey M. Matusow, pursuant to and in compliance with the said subpena, appeared before the said subcommittee as a witness, as required by said Senate Resolution 366, but failed and refused to answer certain questions propounded by the chairman, or by the acting chairman, or by the chief counsel, of the said subcommittee, after being specifically directed to do so by the said chairman and/or acting chairman, which questions were pertinent to the subject matter under inquiry. Excerpts from the records of the hearings, held February 28, March 1, and March 2, respectively, whereat Harvey M. Matusow appeared before the said subcommittee and thereupon refused and failed to answer the said questions as directed, are annexed hereto and made a part hereof and designated "Annex I."

As a result of the refusal of said Harvey M. Matusow to answer the certain questions as aforesaid pursuant to the inquiry of the said subcommittee, as appears in the aforementioned excerpts of the records annexed hereto, the said subcommittee therefore was deprived of evidence pertinent to the subject matter which, under said Senate Resolution 366, the said subcommittee was instructed to investigate and his persistent and illegal refusal to answer questions as ordered, deprived the subcommittee of necessary and pertinent evidence and places the said Harvey M. Matusow in contempt of the United States Senate.

ANNEX I

TESTIMONY RELATING TO HARVEY M. MATUSOW

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS, OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C., Tuesday, March 1, 1955.

The subcommittee met, pursuant to recess at 10 a. m., in room 457, Senate Office Building, Senator Price Daniel, presiding.

Present: Senators Price Daniel, Eastland, McClellan, and Welker.

Also present: J. G. Sourwine, chief counsel; Alva C. Carpenter, associate counsel; Benjamin Mandel, director of research; and Robert C. McManus, professional staff member.

Senator DANIEL. The committee will come to order.

* * * * * * *

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Senator DANIEL. Mr. Matusow, I wish to go into a series of questions concerning your appearance before the Texas Industrial Commission in 1953. You appeared there as a witness voluntarily, did you not, at Austin, Tex.?

Mr. MATUSOW. I was invited down and appeared voluntarily.

Senator DANIEL. And I believe you already testified that no one suggested what you should say or forced you or asked you to give the answers that they wanted, is that not true?

Mr. MATUSOW. That is correct, sir.

Senator DANIEL. Was there any reason for anyone in connection with the Texas Industrial Commission hearing to doubt the truth of what you were saying under oath?

Mr. MATUSOW. I know of no reason why they should have; no, sir.

Senator DANIEL. And you were sworn before you testified?

Mr. MATUSOW. Yes, sir, it was sworn testimony.

Senator DANIEL. Did you give true and correct answers as to your name and birth and background?

Mr. MATUSOW. Sir, in relation to that I presume so. I have never seen the record there and before I answer any questions on that I would like to submit to the committee that I have the right and I would like to read that testimony and familiarize myself with it before answering questions which my——

Senator DANIEL. You don't recall any false testimony concerning your name and your birth and background?

Mr. MATUSOW. Sir, I believe in relation to any answers to any specific testimony before the Texas Industrial Commission, I believe that is what it was called, I would want to read that testimony, familiarize myself with it prior to answering questions. Otherwise, I am going to have to decline to answer questions on that.

Senator DANIEL. I think you are correct except as to whether or not you recall.

Mr. MATUSOW. I recall my name and birthday.

Senator DANIEL. Having given false answers before the commission concerning name and background?

Mr. MATUSOW. I think, sir, that answering any question on any testimony before the commission would in effect deny me the right if I decided it were necessary for me to use it, to decline to answer.

Senator DANIEL. I will read you the first question and answer.

"Will you state your name and address?

"ANSWER. Harvey M. Matusow. M-a-t-u-s-o-w."

Was that a true and correct answer?

Mr. MATUSOW. Sir, I'm going to decline to answer any questions dealing with that document you have there in that hearing until I have had a chance to read it. I'm going to have to do so because, that I believe it is my right under the Constitution of the United States.

Senator WELKER. What right?

Mr. MATUSOW. Excuse me, sir. I am going to, right now, do something which I do not want to do and I will not go after I have read that but on any questions relating to that I am going to use the privilege afforded me by the fifth amendment to the Constitution of the United States.

Senator DANIEL. You are going to take the fifth amendment of the Constitution of the United States on my question as to whether or not—to the question asked you before the Texas Industrial Commission: "Will you please state your name and address." and the answer, "Harvey M. Matusow" that you are going to claim the fifth amendment and not say whether that is true or not?

Mr. MATUSOW. Sir, you, as a lawyer, know any answer I give relating to any question or answer in that document, any answer I give negative or positive, would by right and by law waive my rights to any other answers that I might decline to answer in relation to that volume. Now, I want to state for the record that I do not want to and I probably will not after I have read that testimony, invoke any rights but right now I'm unfamiliar with it—excuse me, sir.

Senator WELKER. He has taken the fifth amendment.

Mr. MATUSOW. Not quite that simple. That's what you have been trying to do to many people just saying they are taking the fifth amendment. I don't want to take the fifth amendment but I want to familiarize myself with the testimony and when I am familiar with that testimony I can assure you I will answer your questions straightforward and brief and to the point.

Senator DANIEL. Mr. Matusow, let me say as chairman of the committee, unless overruled by other members of the committee, I'm going to read to you a question and the answer from this committee report for several minutes here. Unless you take the fifth amendment, I'm going to read it, the question and

answer and I'm going to make it available to you to see it in writing as I am reading it to you.

Mr. MATUSOW. Sir, I would like to, if it is agreeable to the chairman to take—if I presume we are going to go this afternoon—if I may borrow that document from you over the luncheon recess and read it and I can assure you, sir; I will most probably answer every question and I would say right now probably answer any question you put to me in relation to that document once I have had a chance to read it.

Senator DANIEL. You don't have any question as to whether I would misread it to you?

Mr. MATUSOW. No, sir; I don't but I would like to because I have never read that document, familiarize myself with the testimony.

Senator DANIEL. Mr. Matusow, that is the very reason that I do not intend to proceed on that basis. I do not intend to give you several hours during the recess to read what you have sworn to previously and then tell us whether or not it is true or false.

Mr. MATUSOW. Then I can assure you——

Senator DANIEL. I wish to read it now to you so that you can tell us without yourself having a chance to study it and get counsel on the matters from——

Mr. MATUSOW. Sir, you do not want to deny me right to counsel? This is my right.

Senator DANIEL. Counsel is there, he can advise you.

Mr. MATUSOW. Fine, sir. I don't even want advice from counsel on this. I am familiar enough with the law to know that I am not going to, for many reasons, answer any of your questions because I believe—now maybe I'm wrong but I believe—that the State of Texas is going to start nosing around next week when I'm down in Texas because you know as well as I that I am going to be there next Monday and I am not going to answer any questions one way or another because I think the fifth amendment to the Constitution affords me a protection in relation to answering those questions.

Senator DANIEL. All right, do you claim the fifth amendment and refuse to answer on the grounds that it might incriminate you?

Mr. MATUSOW. Look, the fifth amendment protects the innocent and guilty.

Senator DANIEL. I am asking you for a yes or no answer. Do you take the fifth amendment and refuse to reply to the question I have asked you on the grounds that it might incriminate you?

Mr. MATUSOW. Not on the grounds that it might incriminate me; that is not the fifth amendment. Let us quote that properly.

Senator DANIEL. On what grounds, state them?

Mr. MATUSOW. I will not answer questions in relation to the Texas Industrial Commission and the reason given is the protection afforded me by the fifth amendment to the Constitution. Let us have it quoted correctly.

Senator DANIEL. That is all.

Mr. MATUSOW. Yes, sir.

Senator WELKER. Just a moment, Mr. Chairman.

Mr. MATUSOW. You know, sir, the fifth amendment says nobody in this country has to be a witness against themselves.

Senator DANIEL. Just a minute. I don't believe anyone has asked you a question.

Mr. MATUSOW. Well, I am answering the question anyway.

Senator DANIEL. I offer for the files of the committee a certified transcript of the proceedings before the Texas Industrial Commission in Austin, Tex., December 4, 5, and 6, 1953, certified by Agnes E. Miller, official shorthand reporter. I ask you——

Senator MCCLELLAN. Mr. Chairman, I suggest you read into the record the certificate of the document you hold in your hand.

Senator DANIEL. The certificate reads as follows, and I will show it to you, Mr. Matusow, and your attorney.

"STATE OF TEXAS,
County of Travis:

"I, Agnes E. Miller, reporter State board of control hereby certify that the foregoing 222 pages of volume L constitute a true and correct transcription of my stenotype notes taken of the meeting of the Texas Industrial Commission held in the State capitol building, Austin, Tex., to investigate alleged Communist domination of certain labor organizations in the State of Texas being that portion of the meeting held December 4, 1953 afternoon and night sessions and December 5, 1953, morning sessions, witness my hand on this 12th day of March 1953.

"AGNES E. MILLER."

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Senator McCLELLAN. Mr. Chairman, I would also suggest——

Senator DANIEL. Senator McClellan.

Senator McCLELLAN. I would also suggest you read the caption of the document to further identify it.

Senator DANIEL. For further identification the caption of the document reads:

"Meeting of the Texas Industrial Commission to investigate alleged Communist domination of certain labor organizations in the State of Texas held in the State capitol building, in Austin, Tex., on December 4th, 5th, and 6th, 1953,"

and on page 63 these words

"Mr. Harvey M. Matusow, being duly sworn, testified as follows:"

Now, Mr. Matusow, you may examine this document and the certificate if you desire to do so.

Mr. MATUSOW. If I have time to read the document, sir, and as I told you, I will be glad to answer questions about it, but up until the time that I am given a chance to read that document and consult counsel about that document, I am going to decline to answer any questions in relation to it or identify it in any way, shape or form.

Senator DANIEL. All right, Mr. Matusow, I will ask you whether or not in reply to a question by Mr. Lyerly as follows:

"Will you please state your name and address?" You replied, "Harvey M. Matusow, Santa Fe, N. Mex. and New York City"?

Mr. MATUSOW. Sir, as an attorney, you ought to know that if I answered that question, I'd waive any rights to any——

Senator DANIEL. I simply ask you if you gave—if that was your answer to that question.

Mr. MATUSOW. Sir, you are asking me to be witness against myself and I am going to decline to answer that question and I am going to use the protection afforded me by the fifth amendment to the Constitution and as I state again until such time as I have a chance to read that document. I do not want to use the fifth amendment, I want to answer all your questions but I think you are denying me the right to read that document and answer your question.

Senator DANIEL. Mr. Matusow, take the fifth amendment without making a speech each time.

Mr. MATUSOW. Well, I'm going to do so, sir.

Senator DANIEL. On the same page on 63 this question by Mr. Lyerly:

"After your discharge in August of 1946, what employment did you undertake?"

I will ask you if this was your answer and if it was a true answer.

"First job I had was with an advertising agency, Gray Advertising Agency in New York, and at that time I was going to college, City College of New York, 1946 and 1947."

Mr. MATUSOW. The fifth amendment to the Constitution provides me certain protection and I am going to use it and decline to answer that question, sir.

Senator DANIEL. A question from page 64:

"Having developed that information of your background and experience for the purpose of this Commission, I would like to ask you a direct question, Mr. Matusow. Have you ever been a member of the Communist Party?"

And your answer was "I have."

Was that your answer and was it a true and correct answer?

Mr. MATUSOW. Fifth amendment affords me certain protections against being witness against myself, sir. I am going to have to decline to answer that question on those grounds and I want the record to show that it is the committee's responsibility for not getting at these facts, for denying me a right to read that transcript.

Senator DANIEL. Now, Mr. Matusow, I have asked you once and before you are held to be in contempt of this committee. I want to say to you that you can claim the fifth amendment without a speech on each occasion.

If you so desire——

Senator McCLELLAN. Mr. Chairman——

Senator DANIEL. Yes, Senator McClellan.

Senator McCLELLAN. I suggest that immediately after he takes the fifth amendment that the Chair order him to answer the question. He says he doesn't want to testify against himself. He has been putting on an exhibition here for a week of testifying against himself all the time. I think the witness, if he is going to be asked the questions, he should be ordered to answer them.

Senator DANIEL. Mr. Matusow. I hereby order and direct you to answer the question I have just put to you.

Mr. MATUSOW. I decline to answer that question on the grounds of the protection afforded me by the fifth amendment of the Constitution of the United States.

Senator DANIEL. Now, Mr. Matusow, I hereby order and direct you to answer the first question I put to you which was as to whether your name and address were correctly given whether that was your answer to the question, on page 63 and whether or not it is a true and correct answer?

Mr. MATUSOW. I decline to answer that question, sir, on the grounds of protection afforded me by the fifth amendment to the United States Constitution.

Senator DANIEL. I hereby order and direct you to answer the second question which I asked you concerning this testimony, on page 63, whether or not the answer which I read:

"The first job I had was with an advertising agency, the Gray Advertising Agency in New York, and at that time I was going to college, City College of New York, 1946 and 1947"—

was that your answer and whether or not it was a true and correct answer.

Mr. MATUSOW. I decline to answer that question, sir, on the grounds of the fifth amendment to the Constitution and the protection afforded me therein.

Senator DANIEL. And is it your intention to take the fifth amendment and decline to answer even though you are ordered to answer questions concerning this hearing before the Texas Industrial Commission, as to whether or not you gave true and correct answers there before that commission?

Mr. MATUSOW. It is, sir.

Senator DANIEL. In other words, you do not mind telling the committee that you gave false testimony where it helped out the Communists?

Mr. MATUSOW. No, sir. It is not so—that is not so.

Senator DANIEL. You do not mind doing that, do you—you haven't taken the fifth amendment on any of this evidence that you think, that will help get some of the 13 Communists out of jail?

Mr. MATUSOW. Look, sir——

Senator DANIEL. Have you?

Mr. MATUSOW. That is not so—that is not so.

Senator DANIEL. I say, have you taken the fifth amendment?

Mr. MATUSOW. No, sir.

Senator DANIEL. On any evidence or any question asked you which would show that you lied in an attempt to get some of these Communists who have been convicted from serving their sentence—have you taken the fifth amendment on anything else?

Mr. MATUSOW. No, sir; no, sir, and I would not have taken the fifth amendment on this if I had been given a chance to read that testimony first.

Senator DANIEL. Will you explain to the committee why you wish to read the testimony before answering whether or not truthful answers were given?

Mr. MATUSOW. Very simple reason, sir.

Senator DANIEL. That is what I want to know.

Mr. MATUSOW. I have got to be in the State of Texas again next week and I want to know what to prepare myself for.

Senator DANIEL. All right.

Senator MCCLELLAN. I suggest you ask the witness 2 or 3 more pertinent questions and follow the same procedure.

Senator DANIEL. Mr. Matusow, before asking you these additional questions and before you elect to claim the fifth amendment, I am going to ask Mr. Sourwine, counsel, to instruct you as to the understanding of the committee as to your rights in claiming the fifth amendment and as to our duties in connection therewith.

Mr. SOURWINE. The committee, Mr. Matusow, also have a mind to recognize your claim of privilege under the fifth amendment, provided you claim it properly.

You are informed that you do not have the privilege of refusing to answer a question, unless you state that you honestly fear that a truthful answer to the question would form at least a link in a chain which would tend to incriminate you. You have a wide latitude in deciding for yourself whether a truthful answer to any particular question will in fact form a link in a chain which will incriminate you but the committee or the Chair has the right to inquire into your bona fides in claiming or attempting to claim the privilege and in that connection then it is proper for the committee to inquire whether you do in fact fear that a truthful answer to that question would form at least a link in a chain that would tend to incriminate you.

Mr. MATUSOW. I understand that, sir. Were you asking me a question on that?

Senator DANIEL. No.

Mr. MATUSOW. What was my reason?

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Senator DANIEL. He was simply advising you of what the committee's understanding of your rights was.

Mr. MATUSOW. Yes, sir.

Senator DANIEL. Happen to be——

Mr. MATUSOW. Yes, sir.

Senator DANIEL. From page 63 of the hearing:

"QUESTION. When did you first join the Communist Party?

"ANSWER. In October of 1947."

Was that your answer and was it a true answer?

Mr. MATUSOW. I am going to have to decline to answer that question basing my declining on the protection afforded me by the fifth amendment of the United States Constitution.

Senator DANIEL. You are ordered and directed to answer the question, Mr. Matusow.

Mr. MATUSOW. I am going to have to decline to answer that question basing my answer on the fifth amendment and the protection afforded me therein.

Senator WELKER. In order to save time, Mr. Chairman, since it is apparent that he is going to take the fifth amendment on this whole line of interrogation—counsel, may I have your attention? Can we stipulate?

Mr. FAULKNER. I am listening.

Senator WELKER. Can we stipulate that he will take the fifth amendment upon the grounds heretofore designated and assigned by him, and that it is further stipulated that the acting chairman, Senator Daniel of Texas, directs and orders him to answer the question? That will save us a good deal of time.

Mr. FAULKNER. I am not prepared to stipulate anything, I am sorry.

Senator WELKER. That is perfectly all right with me, counselor. I am sorry that you would not try to save a little time but I will be here as long as you are, counselor.

Senator DANIEL. A question from page 70:

"Keeping it in chronological order, and moving on to your activities as a member of the Communist Party, what employment or what full-time employment did you have in the various Communist Party groups?"

And your answer as reported on page 71:

"Well, I worked for the Jefferson School, both at the New York School, which is at 575 Sixth Avenue, New York, and their summer camp in 1948, which is in Monticello, N. Y. I then worked for People's Songs, Communist Cultural Group, and then the Wholesale Book Corp., then I worked for Camp Tunison, Communist summer camp in New York State. And I also worked for the Communist Party itself."

Now, Mr. Matusow——

Mr. MATUSOW. I am listening to you, sir.

Senator DANIEL. I am about to ask you whether or not that is the answer that you gave and whether or not it is a true and correct answer?

Mr. MATUSOW. I am going to have to decline to answer that question on the grounds of the fifth amendment to the United States Constitution.

Senator DANIEL. You are ordered and directed to answer the question.

Mr. MATUSOW. I decline to answer on the ground of the protection afforded me in bearing witness against myself provided in the fifth amendment to the United States Constitution.

Senator DANIEL. From page 75:

"Mr. Matusow, this Industrial Commission of Texas is conducting this study and investigation for the purpose of uncovering any subversive activities with respect to three specific unions. These unions are the Distributive Processing and Office Workers of America, the International Union of Mine, Mill, and Smelter Workers, and the International Fur and Leather Workers Union. Are you familiar with these unions?"

And your answer: "I am."

Was that your answer and was it a true and correct answer?

Mr. MATUSOW. I decline to answer that question, sir, basing my declination on the grounds of the United States Constitution and the fifth amendment in it.

Senator DANIEL. The Chair orders you to answer the question.

Mr. MATUSOW. I decline to answer that question, basing my answer on the protection afforded me by the fifth amendment to the United States Constitution, against bearing witness against myself.

* * * * * * *

Senator WELKER. Yesterday I interrogated you with respect to some of your finances. Let me again ask you at this time, are you a wealthy man?

Mr. MATUSOW. No, sir.

Senator WELKER. Do you have money in the bank?

Mr. MATUSOW. Oh, a few dollars.

Senator WELKER. All right. What do you mean by a "few dollars"?

Mr. MATUSOW. Oh, I don't know what the figure is now, money which I spent on this trip.

Senator WELKER. You don't have that in the bank, the money that you spent on the trip?

Mr. MATUSOW. No. I mean, that would come from money I have taken from the bank account. I would say right now total cash assets, a couple or $300; I have got royalties coming in from a toy which I invented, which is going to be on the market in a few weeks, a toy that I invented and sold to a manufacturer last year. I expect to make five, six, maybe ten thousand dollars on that toy. I have got another toy.

Senator WELKER. I don't desire to go into the toy.

Mr. MATUSOW. Well, I mean, I do other things besides write books and become a witness.

As I say, I have got one toy that I have already sold, and another one which I expect to have sold shortly, which would be for next year's toy fair.

Senator WELKER. Very well.

Now, as I understand the testimony given by you prior to my returning from the West, you stated that you had been robbed in the city of Los Angeles, Calif., of the sum of $1,100 in cash?

Mr. MATUSOW. Yes, sir.

Senator WELKER. And I am informed that you had this $1,100 in the leaves of a book.

Mr. MATUSOW. In a book; yes, sir.

Senator WELKER. Where and when did this robbery take place?

Mr. MATUSOW. I forget the exact date, but I believe it was the last day of September, or thereabouts, in 1953, in the Hollywood-Roosevelt Hotel in Los Angeles County, Los Angeles, Calif.

Senator WELKER. Did you report that to the robbery division?

Mr. MATUSOW. Yes, sir; it was reported immediately.

Senator WELKER. And they made an investigation of it?

Mr. MATUSOW. I presume so. They came up and inquired in good "Dragnet" fashion, and they got the facts.

Senator WELKER. But you didn't get your money back?

Mr. MATUSOW No, sir.

Senator WELKER. Do you file income-tax returns?

Mr. MATUSOW. Yes, sir.

Senator WELKER. Did you list that as a loss?

Mr. MATUSOW. I did, sir.

Senator WELKER. Do you care to submit to the committee your income-tax returns for the last, say, 6 years?

Mr. MATUSOW. Well, I will dig them up, and the committee can have them.

Senator WELKER. I would appreciate that. That is very gracious of you, sir.

Mr. MATUSOW. I will get you copies of it. I believe at this point I am in the process of preparing last year's income tax, and when that is completed, if I may do it after April 15, which is the date I file income tax for 1954.

Senator WELKER. Mr. Matusow, have you ever earned large salaries?

Mr. MATUSOW. No, sir.

Senator WELKER. What is the largest salary you ever earned?

Mr. MATUSOW. Well, very seldom worked on salary. The largest amount I earned from a corporation—usually, I have worked in the past as independent contractor. You might say that 1 day's work for the Texas Pacific Railway, of $800, was prettty good for a day's work.

Senator WELKER. $800?

Mr. MATUSOW. Yes, sir.

Senator WELKER. That is all listed in your returns?

Mr. MATUSOW. Yes, sir. That included expenses. I believe it is all itemized.

Senator WELKER. Well, certainly.

Mr. MATUSOW. Yes, sir.

Senator WELKER. You are entitled to that. That is the highest?

Mr. MATUSOW. Well, offhand I can think of that as an example, and there were other examples of moneys earned, similar to that, during the election campaign.

Senator WELKER. What is your average income?

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Mr. MATUSOW. Oh, it varies, sir.

Senator WELKER. That is a pretty broad answer. Can't you help me a little better than that?

Mr. MATUSOW. I don't have an average income. My life hasn't been average either, and I think my income has been commensurate with the nonconformity of my activities in the last 5 or 6 years.

Senator WELKER. Your life hasn't been average?

Mr. MATUSOW. Well, I wouldn't call myself a conformist in relation to the average John Q. Citizen who goes to school, gets out, and works for somebody for 10, 12, 15, or 20 years.

Senator WELKER. Now, I would like to ask you this: Who has your toy contract?

Mr. MATUSOW. Well, a friend of mine has it. I will get all the contracting information for you.

Senator WELKER. I would like to know the name of the friend of yours.

Mr. MATUSOW. Well, I will have to decline to answer that question right now, until I can get the specific name of the company. It is being handled by somebody else, and I will get that.

Senator WELKER. You mean, if you don't know the name of the specific company, that you would have to decline under the fifth amendment?

Mr. MATUSOW. Wait a minute, sir. I didn't say anything yet, but let me answer this question.

Senator WELKER. Very well.

Mr. MATUSOW. And then we will get to the point. Because of the fact that I am a fairly controversial individual, and that I have created something which has nothing to do with politics, in the way of a toy, and was sold to a manufacturer under a name, my stage name, and the fact that if it were known publicly—the press is here—that this toy was a product of my doing, I think it would affect the sale of it and would interject something in the sale, normal business sale, of this toy, which would not normally be there.

It is an entertaining, nondestructive toy, for children, and therefore if I were to disclose that at this point, I feel it would affect not only me but the manufacturer who has invested a certain amount of money in this toy, and would therefore be unfair to that person who has invested this money, and I think that point is clear. I am trying to make it clear, sir.

Senator WELKER. It isn't quite so clear, because I want to advise you that, as one member of this committee, we are not here trying to make the manufacturer money.

Mr. MATUSOW. Are you trying to lose it for him?

Senator WELKER. Nor are we trying to lose money for him, but we are seeking only one thing: that is the truth.

Now, I will ask you to name me the name of the individual or the corporation or the partnership who has the contract on your toy.

Mr. MATUSOW. I decline to answer that question on the grounds of the fifth amendment to the Constitution.

Senator WELKER. A truthful answer, in other words, to that very simple question would tend to incriminate you, or set in force a chain of circumstances that might tend to have you bear witness against yourself?

Mr. MATUSOW. There are other aspects to the fifth amendment to the Constitution which, I think, would cover that, sir.

Senator WELKER. I am not asking you for that. I am trying to help you, and I think that is a perfectly legitimate——

Mr. MATUSOW. In the fifth amendment, may I quote, sir?

Senator WELKER. No, you are not going to make a speech. I have heard it 10,000 times.

Mr. MATUSOW. All right, sir.

Senator WELKER. I know the fifth amendment perhaps as well as you do, and if your counsel differs with me upon my philosophy of what the fifth amendment means, in order to protect your rights, you have every liberty to protect them, but I don't want to hear the ordinary speech that I have heard here so many, many times.

Mr. MATUSOW It is not the question of incrimination.

Senator DANIEL. Let the Chair——

Senator WELKER. Mr. Chairman, I ask that the witness be directed and ordered to answer the last question with respect to who the individual happens to be, the corporation, or partnership, or any other body, known to be the contractor on his toy.

Senator DANIEL. Mr. Matusow, the Chair orders and directs you to answer the question asked by Senator Welker.

Mr. MATUSOW. Excuse me, sir.

(Witness confers with his counsel.)

(Senator Watkins left the hearing room.)

Senator DANIEL. The record will show the consultation with counsel.

Mr. MATUSO. I decline to answer that question on the grounds of the rights in relation to the fifth amendment, as to the fact that no property can be taken or disturbed in any way without due process of law, and I feel that disclosing the name of the manufacturer, et cetera, would, in effect, be taking property from that manufacturer and have an effect on the sales of that toy.

Senator DANIEL. You understand that you have been ordered and directed to answer this question?

Mr. MATUSOW. I do, sir.

Senator DANIEL. And that you may lay yourself liable for contempt of this committee?

Mr. MATUSOW. I understand that.

Senator DANIEL. If you continue to refuse to answer it, do you not?

Mr. MATUSOW. On that question, I am fully cognizant of that, sir, and I maintain my position, and also the fact that counsel informs me, and I know it—I asked him about it—I believe this has no relevancy with any of the issues involved here, but mainly the question of the property, due process of law in relation to the fifth amendment to the Constitution of the United States, and I maintain that.

Senator DANIEL. Mr. Sourwine.

Mr. SOURWINE. I should like to be heard for just a moment so that the record may speak clearly.

I am afraid the record may not now show whether Mr. Matusow is claiming the fifth amendment privilege or some other privilege in connection with his last refusal to answer.

I respectfully suggest that he be directed to claim whatever privilege he desires explicitly in connection with his refusal, so that the record may speak on that point, and I believe in fairness to Mr. Matusow, he should be admonished on the record that he does not have the right to refuse to answer under the fifth amendment because of fear that some other person will be embarrassed or caused loss thereby, or because of fear that he himself will suffer financial loss thereby.

Senator DANIEL. Mr. Matusow, I feel sure that your lawyer will so advise you, if you counsel with him, that the reasons which you have given there in your last refusal are not applicable under the fifth amendment.

Now, the Chair is going to order and direct you again to answer the question.

Mr. MATUSOW. Then I can simply state, sir, that I decline to answer that question on the grounds of the protection afforded me by the fifth amendment to the United States Constitution.

Senator DANIEL. Well, now, Mr. Matusow, in all truthfulness, you know that you are not actually in good faith declining to answer that question on account of any fear that it is giving evidence against yourself or might tend to incriminate you; don't you?

Mr. MATUSOW. I believe the grounds in the full comprehension of the fifth amendment cover my answer, sir, and that there is something in the fifth amendment to the Constitution which was set out to protect me and other individuals in such cases.

Senator DANIEL. Just to make it clear that you understand what you are doing——

Mr. MATUSOW. I do, sir.

Senator DANIEL. Do you have any fear that a truthful answer to that question will in any way tend to incriminate you or cause you, yourself, to bear witness against yourself for something——

Mr. MATUSOW. There is more to the fifth amendment than that, sir.

Senator DANIEL. I just ask you—will you answer that question—do you have any fear that a truthful answer to that question could in any way tend to incriminate you?

Mr. MATUSOW. Sir, I believe the answer in relation to the fifth amendment is an answer in itself to that question. If I had fear one way or another about self-incrimination, that would be the reason that I invoked the fifth amendment to the Constitution.

Senator DANIEL. I just want to be sure that you counsel with your conscience and with your counsel——

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Mr. MATUSOW. My conscience is quite clear, sir.

Senator DANIEL (continuing). Before you refuse for the third time to answer the question.

Mr. MATUSOW. I state my position, sir.

Senator WELKER. Is it your position——

Senator DANIEL. Excuse me one minute.

Mr. MATUSOW. I am referring to myself, not somebody else, sir.

Senator DANIEL. So that we have an explicit answer here, is there any fear in your mind that a truthful answer to this question would tend in any way to incriminate you directly or indirectly with any offense or in any offense, for which you could be punished?

Mr. MATUSOW. My only answer is that I invoke the fifth amendment to the Constitution, and the rights contained therein, where it says: "* * * nor to be deprived of life, liberty, or property without due process of law."

Senator DANIEL. You decline to answer, then, the last question, too, for the same reason?

Mr. MATUSOW. Yes, sir.

Senator WELKER. Is it your opinion and the opinion of your able counsel, should I ask any of the newsmen or any person in this room what company they might own one share of stock in, that that would tend to incriminate the man?

Mr. MATUSOW. I have no idea what any newsman or any members of the committee, or anybody else in this room, might be guilty of or innocent of, and why and when they would——

Senator WELKER. You are not inferring that you are guilty of anything, are you?

Mr. MATUSOW. No, sir; I said "guilty or innocent of."

Senator WELKER. Guilty or innocent of?

Mr. MATUSOW. Yes, sir.

Senator WELKER. Certainly, if you are innocent, then you couldn't bear witness against yourself?

Mr. MATUSOW. Ah, sir, the fifth amendment is there to protect the innocent as well as the guilty.

Senator WELKER. I understand that. I have heard that many times before.

Mr. MATUSOW. And it is true.

Senator WELKER. Now, would you be kind enough to answer this very simple question——

Mr. MATUSOW. I will endeavor to do so, if possible.

Senator WELKER. Have you received any royalties from this toy?

Mr. MATUSOW. I believe, sir, I am going to decline to answer that question on the grounds of the fifth amendment to the Constitution, and the rights contained therein.

Senator DANIEL. Mr. Matusow, the Chair orders and directs you again to answer the question which has been propounded, and I want to say, so the record will be clear, that you have not satisfied the chairman of your good faith in claiming the fifth amendment as a grounds for declining to answer the question which has just been asked, and if you will counsel with your attorney again and think this matter over, at least I hope you will, and that you realize that at least this committee is going to see that a witness is in good faith and is using the fifth amendment in good faith before this committee is going to permit him to decline to testify without again ordering the witness to testify.

Mr. MATUSOW. Thank you, sir.

(Witness confers with his counsel.)

Senator DANIEL. I want you to know that what I have just said applies to both the question Senator Welker asked you, the last question, and to the last question which I propounded to the witness.

Now, what is your answer to Senator Welker's question?

Mr. MATUSOW. The answer to Senator Welker's question is that I must decline to answer that question on the grounds of the fifth amendment to the Constitution, and the rights contained therein; and in relation to your question, sir, as to my good faith in answering that question and using the fifth amendment to the Constitution on this question, I believe that I am in good faith with the committee, and I know I have been in good faith with this committee in answering all questions propounded to me by members of the committee and able counsel for the committee, and I intend to continue to answer such questions; and I believe of all the witnesses that have been before this committee, who might be considered unfriendly witness, as I think the press has termed me, I think in terms of using and invoking the fifth amendment I have probably set a record for

not doing so, and have done so at a minimum only in relation to the testimony in Texas, which we went into this morning, and this question today.

I have not hedged, I don't believe. I have been answering your questions. I understand that I have left myself open to certain criminal action in relation to contradictory statements under oath, on not one but probably five or six hundred occasions, in the 4 days that I have been before this committee, and I don't believe I am trying to avoid all types of answers which would tend to incriminate me, as you put it, but I think in this case, sir, my using the fifth amendment to the Constitution is in good faith, and I sincerely believe that any answer I might give to these questions would be something I could not answer because of the fifth amendment; I feel that I must invoke the privileges and rights afforded to me by the fifth amendment to the Constitution.

Senator DANIEL. You understand you are using the fifth amendment to protect the manufacturer of your toy; is that right?

Mr. MATUSOW. No. Excuse me, sir. Primarily to protect me.

Senator DANIEL. I order you again and direct you to answer the question I asked a moment ago, just for the sake of the record, so it will be clear that you have been ordered to answer.

Mr. MATUSOW. Yes, sir.

Senator DANIEL. That is, as to whether or not you have the slightest fear that a truthful answer to the question that Senator Welker had asked about who was to manufacture your toy would tend to incriminate you or cause you to be punished in any way.

Mr. MATUSOW. The answer to your question, sir; I must decline to answer on the grounds of the fifth amendment to the Constitution, and the rights contained therein.

Senator DANIEL. All right. I just want the record to show that the committee has warned you over and over again that the committee does not believe that you are in good faith in invoking the fifth amendment on this question, and if you should be cited for contempt later, it certainly will not be without warning from the acting chairman of this committee.

Mr. MATUSOW. I am cognizant of it, sir. Thank you for advising me.

Senator DANIEL. Mr. Sourwine has a question.

Mr. SOURWINE. Just one question at this point, Mr. Matusow.

Is the firm which is to manufacture, or which is manufacturing your toy a Soviet or Communist firm?

Mr. MATUSOW. Before answering that question, which I will endeavor to do without invoking the amendment, I want to find out from my counsel whether or not by answering that question I am waiving rights to the fifth amendment on the other questions. Excuse me.

(Witness confers with his counsel.)

Senator WELKER. Do you care to describe the toy?

Oh, I beg your pardon, Mr. Chairman. Wait a minute, Mr. Witness, the chairman desires——

Senator DANIEL. He is about to answer a question.

Mr. MATUSOW. I decline to answer that question on the grounds of the fifth amendment to the Constitution, but not on that question in relation to my own dealings with all types of manufacturers.

I might state I have had no contact with any Soviet concerns at all in the last—in any time that I can recall in my life, or any behind the Iron Curtain concerns, but it has nothing to do with the last question, mind you, sir, but I have never had any contact with any manufacturers behind the Iron Curtain.

Senator DANIEL. Mr. Matusow, you certainly waived any immunity you might have on that question, and the Chair is going to order and direct you to answer that question, again with the warning that you may cause yourself to be liable for contempt of this committee if you insist on declining to answer.

Mr. MATUSOW. Sir, I am cognizant of the warning of the committee, and appreciate that, but I must decline to answer the counsel's last question on the grounds of the fifth amendment to the Constitution.

Senator DANIEL. Mr. Sourwine, will you repeat the question.

Mr. SOURWINE. Yes. And may I at the same time further admonish the witness, Mr. Chairman?

Senator DANIEL. You may.

Mr. SOURWINE. The admonition to the witness is that, having testified under oath that you have never had any contact with a Soviet or Communist firm, it is obvious that your answer to my question, if truthful, would have to be, no, and it is equally obvious that a "no" answer could not in any way incriminate you so

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that if your testimony here is true, you would appear to have no basis for claiming the fifth amendment.

The question is whether the firm which is manufacturing or is to manufacture your toy is a Soviet or Communist firm.

Senator DANIEL. Mr. Matusow, you are directed and ordered to answer the question.

Mr. MATUSOW. Sir, I must decline to answer that question put to me by the counsel, on the grounds of the fifth amendment to the Constitution.

Senator DANIEL. Senator Welker?

Senator WELKER. Now that leads me to this. I think all of us are rather interested in this toy. Could it be a miniature lie detector?

Mr. MATUSOW. Sir, on the question of lie detector, I said yesterday, but it wasn't picked up, I want to take a lie detector test, but not a miniature——

Senator DANIEL. Just a moment, Mr. Matusow. Answer the question propounded, please, sir. It calls for a yes or no answer.

Mr. MATUSOW. Excuse me, sir.

(Witness confers with his counsel.)

Mr. MATUSOW. Well, sir, no; it is not a miniature lie detector.

Senator WELKER. I didn't hear your answer.

Mr. MATUSOW. It is not a miniature lie detector.

Senator WELKER. Would you mind telling us what sort of a toy it is?

Mr. MATUSOW. Well, I call it a stringless yo-yo.

Senator WELKER. A stringless yo-yo?

Mr. MATUSOW. A stringless yo-yo.

(Senator Butler left the hearing room.)

Senator WELKER. And once again, repetitious as it is, if you tell us the name of the manufacturer of the stringless yo-yo, it might tend to have you bear witness against yourself?

Mr. MATUSOW. I believe in answer to that question I would have to invoke—I mean, to tell you the name of the manufacturer, I would have to decline to answer that question on the grounds of the fifth amendment to the Constitution.

Senator DANIEL. Is he a member of the Communist Party?

Mr. MATUSOW. I will have to decline to answer that question on the grounds of the fifth amendment to the Constitution, because by answering that question, would waive my rights to the other privileges I have of invoking the fifth——

Senator DANIEL. I order and direct you to answer the question whether or not the manufacturer of your yo-yo is known to you to be a member of the Communist Party.

Mr. MATUSOW. I have to decline to answer that question on the grounds of the fifth amendment to the Constitution.

Senator DANIEL. Senator Welker?

Mr. MATUSOW. I will be glad to send each member of the committee a version of it, sir.

* * * * * * *

Senator DANIEL. Now first when you broke with the Communist Party was in 1951, wasn't that right?

Mr. MATUSOW. No. Well, I left the Communist Party the first and only time that I was in the Communist Party on January 19, 1951.

Senator DANIEL. Now, you wrote down all of your experience in the Communist Party, did you not?

Mr. MATUSOW. I wrote down on more than one occasion, well——

Senator DANIEL. Before ever testifying before a congressional committee did you not write down all of your experience in the Communist Party and with the Communist conspiracy?

Mr. MATUSOW. I'm going to have to decline to answer that question on the same grounds that I gave this morning, referring to any documents I wrote and gave as reports on the basis of the fifth amendment to the Constitution of the United States.

Senator DANIEL. Well, now——

Mr. SOURWINE. Mr. Chairman——

Senator DANIEL. Mr. Sourwine.

Mr. SOURWINE. I would like to submit for the consideration of the committee that the witness, having testified to the effect that he wrote down on many occasions statements about what he had done in the Communist Party, has waived the privilege against testifying with respect to any of those statements.

Senator DANIEL. I think that the counsel is right, Mr. Matusow, and I am going to order and direct you to answer the question whether or not you have, of

your own accord before testifying before any congressional committee written down your experience in the Communist Party and with the Communist conspiracy?

Mr. MATUSOW. Might I ask the chairman prior to answering that—of course I want to consult with counsel, but I lost part of a tooth today and I want to take some medicine. May I have about a 3-minute recess, and I will consult with counsel.

Senator DANIEL. We will have a 3-minute recess, and in talking with your counsel I would like for both of you to understand that the reason for this line of questioning is simply to make it clear in this record, that you volunteered all this information about the Communist Party and your knowledge of the Communist conspiracy before any congressional committee ever saw you.

Mr. MATUSOW. I understand that, sir.

Senator DANIEL. That was the purpose of it. All right, a 3-minute recess.

(Short recess.)

Senator DANIEL. Mr. Matusow, do you recall the question that was asked just before the recess?

Mr. MATUSOW. I would appreciate it if the specific question were asked again.

Senator DANIEL. Is it true that after you first broke with the Communist Party and before you ever testified before a congressional committee, that you wrote out a statement of your experiences in the Communist Party and your knowledge of the Communist conspiracy?

Mr. MATUSOW. A statement—I am going to have to decline to answer that question—you are referring to a specific statement——

Senator DANIEL. Yes, the first that you ever wrote. I just said did you write a statement, any statement before ever appearing before a congressional committee outlining your experiences with the Communist Party, your knowledge of the Communist conspiracy? I understand that you have already testified that you did.

Mr. MATUSOW. This might be the case, sir.

Senator DANIEL. I just want to make it plain it was before you were ever brought before any congressional committee.

Mr. MATUSOW. I don't recall testifying specifically about that, any statement, any specific statement before the committee. I may have.

I recall testifying about a specific statement in other hearings in Judge Dimock's court, I think I might have referred to that, but I don't recall testifying about any specific statement in this hearing, sir, and I am going to have to decline to answer that question on the grounds of the fifth amendment of the Constitution of the United States.

Senator DANIEL. Well, I am going to ask you, I am going to direct and order you to answer the question.

Mr. MATUSOW. Once again, sir, I am going to have to decline to answer that question on the grounds of the fifth amendment.

Senator DANIEL. If you find you have testified concerning such statement——

Mr. MATUSOW. A written statement?

Senator DANIEL. Yes, or otherwise waived any rights that you have to claim the fifth amendment in this instance, you understand that you might be doing something that would work to your own injury by declining to answer this, do you not?

Mr. MATUSOW. To my knowledge, sir, I have not waived any rights to invoke the fifth amendment on this question.

Senator DANIEL. I just wanted to call it to your attention.

Mr. MATUSOW. Yes, sir.

Senator DANIEL. Before you decline to answer other questions on the ground of the fifth amendment.

Mr. MATUSOW. In relation to any written statement referred to in the questions I am going to have to decline to answer on the grounds of the fifth amendment to the Constitution.

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Calendar No. 833

84TH CONGRESS, 1st Session | SENATE | REPORT No. 826

SIMPLIFIED MAILINGS—CHURCH PUBLICATIONS

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 4585]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 4585) to amend the act of August 24, 1912, to simplify the procedures governing the mailings of certain publications of churches and church organizations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

This bill amends the act of August 24, 1912, to authorize churches and church organizations to mail their publications under second-class rates without the necessity of maintaining subscription lists separate from their membership lists. Enactment of the bill would have no effect on postal revenues and is for the sole purpose of removing an unjustified hardship currently imposed on churches and church organizations.

Report No. 714 of the Post Office and Civil Service Committee of the House of Representatives is embodied as a part of this report.

HOUSE REPORT

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 4585) to amend the act of August 24, 1912, to simplify the procedures governing the mailings of certain publications of churches and church organizations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This bill amends section 229 of title 39 of the United States Code and authorizes churches and church organizations to mail their publications under second-class rates without the necessity of maintaining subscription lists separate from their membership lists.

At the present time the periodicals and publications of organizations such as institutions of learning, trade unions, lodges, benevolent societies, and others of a similar nature have this mailing privilege. Under present law, enacted in

1879, church or church organizations, in order to comply with the regulations governing second-class mail, are required to obtain an individually signed statement from each of their members identifying a portion of the member's church contribution as being payment for a subscription to the church publication. This legislation will correct the oversight of not including churches and church organizations in statutes modifying the law governing second-class mailings passed in 1912 and amended several times.

The benefits of this legislation will be felt mostly by the local churches inasmuch as the national church organizations maintain subscription lists as a normal course of business. In the local churches, in order to be eligible for second-class mailing privileges, some member of the church must contact all other members and secure a subscription pledge card. This operation is purely a smokescreen and a nuisance insofar as both the local church and the Post Office Department are concerned. The Post Office Department testified that no benefits inure to the Department in enforcing the requirement for subscription lists of local churches but that on the contrary, it was expensive, time-consuming, and often embarrassing.

The provisions of this bill would affect in no way the postage rate paid on the church publications involved. Churches are already placed in the same category for rate purposes as are the other nonprofit fraternal, educational, veterans, and similar groups. It would simply eliminate the cumbersome and little understood procedures required of the churches.

The publications which fall under this authority are limited in the advertising which they may carry, in that advertising of the publisher only is permissible. Any publication which carries commercial advertising matter must comply with the standard postal regulations for second-class matter.

The enactment of this bill should not result in additional cost; on the contrary, it is expected to bring about a material saving of time for the Post Office Department and the elimination of confusion and embarrassment on the part of the churches.

The committee held hearings on this legislation at which favorable testimony was presented by the Post Office Department and by representatives of church organizations and individual churches. No objections to the passage of this bill were received.

The letter of endorsement from the Postmaster General follows:

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., April 19, 1955.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on H. R. 4585, a bill to amend the act of August 24, 1912, to simplify the procedures governing the mailings of certain publications of churches and church organizations.

The publications to which this bill would apply are very similar to those already specially provided for in the act of August 24, 1912, as amended (39 U. S. C. 229). They are circulated largely to members of the churches or church organizations in the interest of which they are published.

There are several hundred publications in this group, many of which already have the second-class mail privileges. As the law makes no special provisions for these publications they must meet the requirements of the act of March 3, 1879, as amended (39 U. S. C. 226), which is the general law governing second-class matter and which specifies that, among other things, a publication must have a legitimate list of subscribers and not be designed primarily for free circulation or for advertising purposes.

No particular benefits inure to the Post Office Department in requiring churches and church organizations to meet the requirements in the act of March 3, 1879, as amended, since practically all the publications eventually obtain second-class mail privileges after involved correspondence and printing of special pledge cards or forms to include a subscription statement. This has actually worked a hardship on some churches or church organizations.

The provisions of this bill would eliminate these cumbersome procedures and would place the publications of churches and church organizations in the same category as those published by institutions of learning, trades unions, benevolent societies, and other similar organizations now provided for in the act of August 24, 1912, as amended. That act does not permit advertising other than the publishers' in publications of institutions of learning. It does not require subscriptions

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except in the cases of certain other publications specifically mentioned carrying advertising other than the publishers'. The great majority of publications of churches and church organizations do not carry advertising other than their own and therefore would not be required to have subscriptions.

The act of August 24, 1912, as amended, does not prescribe a different postage rate for publications coming within its provisions.

If this bill were enacted into law, it would simplify the processing of applications for entry and reentry of publications as second-class mail, from churches and church organizations, thereby saving considerable time and expense. It would also tend to preclude criticism of the postal service by a very substantial segment of citizens of the country who cannot understand why publications of the type provided for in the bill cannot be given the benefits contemplated as well as publications for which such provision is now made.

In view of the foregoing, this Department recommends the enactment of this legislation.

The Bureau of the Budget has advised that there would be no objection for the presentation of this report to the committee.

Sincerely yours,

C. R. HOOK, Jr.,
Acting Postmaster General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NINTH PARAGRAPH UNDER THE HEADING "OFFICE OF THE THIRD ASSISTANT POSTMASTER GENERAL" CONTAINED IN FIRST SECTION OF THE ACT APPROVED AUGUST 24, 1912

OFFICE OF THE THIRD ASSISTANT POSTMASTER GENERAL

* * * * * * *

That from and after the passage of this Act all periodical publications issued from a known place of publication at stated intervals, and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than one thousand persons, or by a regularly incorporated institution of learning, or by a regularly established State institution of learning supported in whole or in part by public taxation, *or by a church or church organization*, or by or under the auspices of a trades union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by State boards of health, by State conservation and fish and game agencies or departments, and by State boards or departments of public charities and corrections, shall be admitted to the mails as second-class matter, and the postage thereon shall be the same as on other second-class matter; and such periodical publications, issued by or under the auspices of benevolent or fraternal societies or orders or trades unions, or by strictly professional, literary, historical, or scientific societies, *or by churches and church organizations*, shall have the right to carry advertising matter, whether such matter pertains to such benevolent or fraternal societies or orders, trades unions, strictly professional, literary, historical, or scientific societies, *churches and church organizations*, or to other persons, institutions, or concerns; but such periodical publications, hereby permitted to carry advertising matter, must not be designed or published primarily for advertising purposes, and shall be originated and published to further the objects and purposes of such benevolent or fraternal societies or orders, trades unions, *churches and church organizations*, or other societies, respectively; and all such periodicals shall be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications: *Provided*, That the circulation through the mails of periodical publications issued by, or under the auspices of, benevolent or fraternal societies or orders, or trades unions, or by strictly professional, literary, historical, or scientific societies, *or by churches and church organizations* as second-class mail matter, shall be limited to

copies mailed to such members as pay therefor, either as a part of their dues or assessments, or otherwise, not less than fifty per centum of the regular subscription price; to other bona fide subscribers; to exchanges, and ten per centum of such circulation as sample copies: *Provided further*, That when such members pay therefor as a part of their dues or assessments, individual subscriptions or receipts shall not be required: *Provided further*, That the office of publication of any such periodical publication shall be fixed by the association or body by which it is published, or by its executive board.

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Calendar No. 834

84TH CONGRESS, 1st Session | SENATE | REPORT No. 827

PROVIDING FOR THE PURCHASE OF BONDS FOR EMPLOYEES

JULY 12 (legislative day, JULY 11), 1955.—Ordered to printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 4778]

The Committee on Post Office and Civil Service to whom was referred the bill (H. R. 4778) to provide for the purchase of bonds to cover postmasters, officers, and employees of the Post Office Department and mail clerks of the Armed Forces, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

AMENDMENT

The committee amendment strikes out all of the House bill after the enacting clause and inserts in lieu thereof a substitute text which appears in the reported bill in italic type. An explanation of the provisions of the committee amendment is contained in the section-by-section analysis of the bill, as reported.

PURPOSE

The purpose of this legislation, as amended, is to provide for the purchase of bonds to cover officers and employees of the Government.

The House bill would authorize the Postmaster General to purchase bonds for officers and employees in the postal establishment when he determines it to be in the interest of the Government. The amendment made by the committee extends the purpose of the bill to include all officers and employees of the Government. The amendment is mandatory in its effect upon the executive branch and is permissive with respect to the legislative and judicial branches.

BACKGROUND

Similar legislation, both limited in application to the Post Office Department, and of general application, has been under consideration for many years. The Internal Revenue Code of 1954, Public Law 591, approved August 16, 1954, contains in section 7803 (c) authority for the Internal Revenue Service to purchase bonds covering its employees.

The bill, as amended, is in line with the modern trend with respect to bonding, as reflected by the fact that private organizations, and State and local governments, almost universally absorb the cost of bonds for their officers and employees. Proposals similar to the provisions of the bill, as recommended by the committee, have been recommended by the Bureau of the Budget, the Civil Service Commission, the General Services Administration, and the General Accounting Office.

SECTION-BY-SECTION ANALYSIS

Section 1 directs the heads of departments and independent establishments (including the government of the District of Columbia), and authorizes appropriate officials of the legislative and judicial branches of the Government, to obtain blanket, position schedule, or other types of surety bonds, covering civilian officers and employees and military personnel thereof, required by law or administrative ruling to be bonded. Premiums for such bonds may cover a period not exceeding 2 years and are to be paid by the Government from any funds of the agency generally available for administrative expenses at the time the premiums become due. The heads of departments and independent establishments may procure bonds if the premium of a bond does not exceed the equivalent of $250 a year. To determine the yearly equivalent the total premium will be divided by the number of years that the bond is to cover. If a bond premium would exceed an equivalent of $250 a year, in the opinion of the head of a department or independent establishment, procurement in such cases is to be made through the Administrator of General Services. In such instances he is required to advertise for bids and to procure the bonds from the lowest responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors being considered.

Section 14 of title 6 of the United States Code, which first became law in 1909, prohibits the United States from paying any part of the premium or other cost of furnishing bonds of Government officers or employees. Thus, except for Government corporations and a few other agencies, officers and employees are presently required to furnish surety bonds at their own expense. A separate bond for each is now required to be filed and maintained by the Government. Under the proposed legislation the number of bonds would be greatly reduced, thereby reducing the costs of bonding companies and the cost of the Government in maintaining the bonds. The employees would benefit in that they no longer would have to pay the premiums. The cost of the premiums should be borne by the Government since it receives the benefits of financial protection and of the resulting deterrent effect.

Section 2 amends the analysis of title 6 of the United States Code to conform the title of section 14 thereof, to that provided by section 1.

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Section 3 provides that the legislation become effective 60 days following its enactment, thus affording sufficient time for necessary administrative arrangements to be made.

The title of the bill is changed to be consistent with the purpose of the bill as amended.

COST

Testimony was presented at the hearings by the Post Office Department and other agencies to the effect that the cost of paying the bond premiums would be offset by economies in administration. The Post Office Department stated that the present administrative cost incident to seeing that all employees are bonded, that premiums are paid, and that bonds do not lapse, approximates $300,000 per annum. The Department estimates that blanket bonds can be obtained for somewhat less than this amount, thus the result being no additional cost and perhaps an actual saving.

AGENCY VIEWS

Following are agency views submitted with respect to a related bill (S. 311):

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., May 13, 1955.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate, Washington, D. C.

DEAR SENATOR JOHNSTON: This is in reply to your letter of February 25, 1955, requesting the Civil Service Commission's views on S. 311 to provide for the purchase of bonds to cover officers and employees of the Government.

The Commission endorses the objectives of S. 311 and favors its enactment insofar as it affects civilian employees in the executive branch.

The bill would amend the United States Code to provide that the heads of executive establishments shall, and officials in the legislative and judicial branches may, obtain surety bonds with Government funds for their civilian and military personnel required by law or regulations to be bonded. Our comments concern only the application of the bill to Federal civilian employees in the executive branch.

At present, the United States Government generally may not pay, out of appropriated funds, any part of the cost of furnishing a bond required by law or otherwise of any officer or employee of the Government. One exception was made to this general rule by section 7803 of Public Law 591, 83d Congress, the Internal Revenue Code of 1954. This section gives the Secretary of the Treasury the option of having either the Treasury Department or the employees themselves pay for required surety bonds covering employees in the Internal Revenue Service. It is not clear whether it is intended that S. 311, if enacted in its present form, would operate to change the optional feature of this existing authority for Government purchase of employee bonds. We suggest that the intent of Congress in this respect be clarified.

We favor enactment of S. 311 for two reasons: (*a*) Surety bonding of employees is primarily for the protection of the Government and (*b*) Government purchase of employee surety bonds would accord with general practice in private industry. We know of no reason why the practice of Government should differ from the practices of other employers in this respect.

The Civil Service Commission is not in a position to discuss the merits of the system proposed in S. 311 for Government purchase of employee surety bonds from commercial bonding companies. We believe that the relative economy and effectiveness of this system as compared with that of alternative systems is a question on which comment should be made by the fiscal agencies of the Government.

We are advised that the Bureau of the Budget has no objection to the submission of this report.

By direction of the Commission:
Sincerely yours,

PHILIP YOUNG, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., March 3, 1955.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your request of February 25, 1955, for the views of the Bureau of the Budget on S. 311 to provide for the purchase of bonds to cover officers and employees of the Government.

The purpose of this proposal is to require the heads of departments and establishments to purchase position schedule, blanket, or other types of surety bonds covering employees required to be bonded. The premiums on such bonds would be paid from appropriated funds. At the present time, such employees are required to purchase individual surety bonds from their own funds.

This bill, similar to provisions contained in Public Law 591, August 16, 1954, applicable to the Internal Revenue Service, is in line with the modern trend with respect to bonding, as reflected by the fact that private organizations, and State and local governments, almost universally absorb the cost of bonds for their officers and employees. The enactment of S. 311 would be favored by this Bureau.

Should the committee wish to look into an alternative approach to the one embodied in this bill, we would suggest consideration of an arrangement under which the Government would itself carry the risk of loss by fraud or mistake.

Sincerely yours,

ROWLAND HUGHES, *Director.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 18, 1955.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request of February 25, 1955, acknowledged by telephone March 1, for our views and comments on S. 311, 84th Congress, entitled "A bill to provide for the purchase of bonds to cover officers and employees of the Government."

Proposals embodying the same or similar provisions for purchase by the Government of bonds on a blanket basis have been under consideration by the last several Congresses. In reporting on their various provisions, we have favored the adoption of blanket or position schedule plans of bonding in order to obtain the benefits of flexibility inherent in package coverage and to realize savings that may be expected to result, to employees and the Government, from elimination of individual bonds and their processing costs by both sureties and the Government. We assisted in developing the language now contained in S. 311.

Your committee may wish to consider two amendments designed to clarify the language. First, it is suggested the word "lowest" in line 23, page 2, be eliminated since its inclusion is inconsistent with the provisions of the section which authorize consideration of not only price but also "other factors." Secondly, in order to clarify the liability of old and new sureties during any changeover periods occurring under the legislation, we suggest adding a new sentence to section 1 of the bill as follows: "Whenever any officer or employee is bonded pursuant to the provisions of this section, his surety or sureties on any existing bond shall not be liable for any defaults taking place subsequent to the date of his new coverage."

We strongly recommend enactment of S. 311 with the amendments suggested above. If any further information or assistance is desired, please let us know.

As requested, five copies of this report are transmitted.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as amended by the committee and reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and new matter is printed in italics):

SECTION 14 OF TITLE 6 OF THE UNITED STATES CODE

[14. Rate of premium on bond; premiums not to be paid by United States. Until otherwise provided by law no bond shall be accepted from any surety or bonding company for any officer or employee of the United States which shall cost more than 35 per centum in excess of the rate of premium charged for a like bond during the calendar year 1908. The United States shall not pay any part of the premium or other cost of furnishing a bond required by law or otherwise of any officer or employee of the United States.]

"14. Purchase of bonds to cover officers and employees of the Government.

"The heads of the departments and independent establishments of the Government (including the Government of the District of Columbia) shall, and the appropriate officials of the legislative and judicial branches of the Government may, obtain blanket, position schedule, or other type of surety bonds covering civilian officers and employees, and military personnel thereof, required by law or administrative ruling to be bonded. Each bond shall be of the most economical type available for the number and type of personnel required to be bonded. The bond premium may cover a period not exceeding two years, and shall be paid from any funds available for the payment of administrative expenses at the time such premium becomes payable. If, in the opinion of the head of the department, or independent establishment concerned, the premium cost for any bond procured under this section covering officers or employees in the executive branch of the Government will exceed a rate of $250 per annum, procurement shall be made through the Administrator of General Services when so required by him pursuant to section 302 of the Federal Property and Administrative Services Act of 1949, as amended (41 U. S. C. 252)."

ANALYSIS OF TITLE VI OF THE UNITED STATES CODE

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[14. Rate of premium on bond; premiums not to be paid by United States.]
14. Purchase of bonds to cover officers and employees of the Government.

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Calendar No. 835

84TH CONGRESS, 1st Session | SENATE | REPORT No. 828

CONTINUANCE OF NATIONAL SERVICE LIFE INSURANCE WITHIN 120 DAYS AFTER DISCHARGE

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 1619]

The Committee on Finance, to whom was referred the bill (H. R. 1619) to amend certain provisions of the Servicemen's Indemnity Act of 1951, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong., approved April 25, 1951) provides free indemnity protection for 120 days after release from active service.

Under section 5 of the Servicemen's Indemnity Act any person in the active service having insurance on the 5-year level premium term plan, the term of which expires while the person is in the active service after April 25, 1951, may replace such insurance at any time within the 120-day period after separation from service during which he is covered by indemnity protection. However, if the insurance expires after separation from service, even though within the 120-day period of indemnity coverage, it may not be replaced. Section 1 of the bill would amend section 5 of the Indemnity Act to correct what appears to have been an oversight in the basic law.

The bill as approved by the committee would assure that those cases in which the 5-year term period expired during the 120-day period after discharge and such period has now elapsed, would have 120 days within which to replace their term insurance, if application is made within 120 days after enactment of the bill.

Section 2 of the bill would amend the last sentence of section 5 of the Servicemen's Indemnity Act to provide, with respect to waiver of premiums and total disability income benefits on permanent plan insurance issued or reinstated under that section, that in cases where the total disability commenced prior to the date of application the

Government shall bear the cost of premiums waived, the total disability benefits paid, and the excess mortality costs in such cases.

As indicated in the report of the Veterans' Administration neither section 1 nor section 2 of the bill would create any great additional cost to the Government.

The report submitted by the Veterans' Administration to the House committee is as follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., May 26, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MR. TEAGUE: This is in reply to your request for a report by the Veterans' Administration on H. R. 1619, 84th Congress, a bill to amend certain provisions of the Servicemen's Indemnity Act of 1951.

The principal purposes of the bill are (1) to provide for replacement of 5-year level premium term insurance, the term of which expires within 120 days after discharge from service after April 25, 1951; and (2) to provide that the United States shall bear the excess losses resulting from the issue or reinstatement of insurance, without medical examination, under section 5 of the Servicemen's Indemnity Act. It is noted that the bill would also grant an additional period of 120 days after its enactment within which term insurance expiring while the insured was in active service could be replaced.

The Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong., approved April 25, 1951) provides for the payment of a free indemnity in the maximum amount of $10,000, reduced by the amount of any national service life insurance or United States Government life insurance in force at the time of death, for death in active service on or after June 27, 1950, or within 120 days after release from such service if called to active service for a period exceeding 30 days, and under other specified conditions.

Section 5 of the Servicemen's Indemnity Act provides, in part, that any person in the active service, who is insured under a permanent plan of national service life insurance or United States Government life insurance, may elect to surrender such contract for its cash value, and within 120 days after separation from active service be granted, without medical examination, the same type, plan, and amount of insurance so surrendered, or may reinstate such insurance upon payment of the required reserve and the premium for the current month. Any person in the active service having insurance on the 5-year level premium term plan, the term of which expires while the person is in active service after April 25, 1951, may, upon application made within 120 days after separation from service, payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the 5-year level premium term plan at the rate for his then attained age. Waiver of premiums under the National Service Life Insurance Act of 1940, as amended, may not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section in which it is shown to the satisfaction of the Administrator that total disability of the applicant commenced prior to the date of his application.

It will be noted from the above that present law limits replacement of expired term insurance to that which expires while the insured is in the active service. Section 1 of the bill would amend section 5 of the Servicemen's Indemnity Act to permit replacement of such insurance which expires within 120 days after discharge from service. Enactment of this provision would, to this extent, correct what appears to have been an oversight in the basic law. To assure an opportunity for those cases in which the term expired during the 120-day period and such period has now elapsed, the bill would authorize an application for new term insurance within 120 days after enactment of the bill. However, there appears to be no justification for granting an additional 120-day period for those cases in which the insurance expired during service.

Although section 2 of the bill is intended to relieve the national service life insurance fund and the United States Government life insurance fund of excess losses resulting from the issue or reinstatement of insurance, without medical examination, under section 5 of the Servicemen's Indemnity Act, it would not be possible in all cases without a physical examination to determine the condition of the insured's health at the time the insurance is issued or reinstated, for the

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purpose of fixing future liability on the funds or the appropriations. There will be some cases in which the Veterans' Administration from the evidence filed in connection with a claim, or from compensation or military records, can determine whether the injury or disease which resulted in total permanent disability or death of the insured existed at the time the insurance was issued or reinstated, but there will undoubtedly be other cases where no such determination can be made. In such latter cases, there would be no factual basis for charging losses to the appropriation rather than to the national service life insurance fund or the United States Government life insurance fund. In any event, it is probable that a large percentage of disabled persons so insured within 120 days following discharge may be suffering from a disability that is traceable to the extra hazards of military or naval service. In such cases existing provisions of law would relieve the trust funds of the liability arising from insuring impaired lives.

On the other hand, with respect to waiver of premiums and total disability income benefits in cases of issue or reinstatement of insurance where it is shown that the total disability commenced prior to date of application, the liability incurred from the impaired risks is at once ascertainable and properly should not be chargeable to the trust funds in any case. Similarly, the excess mortality cost where the insurance matures by death from such total disability should be borne by the appropriation. It would therefore be preferable, and the Veterans' Administration so recommends, that section 2 of the bill be redrafted so as to amend the last sentence of section 5 of the act to read:

"Waiver of premiums and total disability income benefits otherwise authorized under the National Service Life Insurance Act of 1940, as amended, or the World War Veterans' Act, 1924, as amended, shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section in which it is shown to the satisfaction of the Administrator that total disability of the applicant commenced prior to the date of his application. The cost of premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator is authorized and directed to transfer from time to time from the national service life insurance appropriation to the national service life insurance fund and from the military and naval insurance appropriation to the United States Government life insurance fund such sums as may be necessary to reimburse the funds for such costs."

If the bill is enacted, section 1 would create little or no cost to the Government. As to section 2, with respect to the United States bearing the excess losses resulting from issue or reinstatement of insurance under section 5 of the Servicemen's Indemnity Act, without medical examination, there are no data available upon which to base an estimate of such losses that would be chargeable to the appropriations, but it is believed they would not be great whether section 2 is enacted in its present form or as recommended above.

Due to the urgent request of the committee for a report on this measure, there has not been sufficient time in which to ascertain from the Bureau of the Budget the relationship of the proposed legislation to the program of the President.

Sincerely yours,

H. V. Higley, *Administrator.*

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Section 5 of Public Law 23, 82d Congress, as amended

Sec. 5. The automatic indemnity coverage authorized by section 2 shall apply to any person in the active service of the named Armed Forces who, upon death in such active service or within one hundred and twenty days after separation or release from such active service as prescribed in section 2, is insured against such death under a contract of national service life insurance or United States Government life insurance, but only with respect to a principal amount of indemnity

equal to the difference between the amount of insurance in force at the time of death and $10,000. Any person in active service who is insured under a permanent plan of national service life insurance or United States Government life insurance, may elect to surrender such contract for its cash value. In any such case the person, upon application in writing made within one hundred and twenty days after separation from active service, may be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Any person [in the active service] having United States Government life insurance or national service life insurance on the five-year level premium term plan, the term of which expires while such person is in active service after [the date of this enactment,] *April 25, 1951, or within one hundred and twenty days after separation from such active service,* shall, upon application made within one hundred and twenty days after separation from service, *or the enactment of this amendment, whichever be the later,* payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for his then attained age. Waiver of premiums *and total disability income benefits otherwise authorized* under the National Service Life Insurance Act of 1940, as amended, *or the World War Veterans' Act, 1924, as amended,* shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section in which it is shown to the satisfaction of the Administrator that total disability of the applicant commenced prior to the date of his application. *The cost of premiums waived and total disability income benefits paid by virtue of the preceeding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator is authorized and directed to transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the Military and Naval Insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to reimburse the funds for such costs.*

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Calendar No. 836

84TH CONGRESS, 1st Session | SENATE | REPORT No. 829

REDEFINING "STEPCHILD" AND "STEPPARENT" UNDER SERVICEMEN'S INDEMNITY

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6419]

The Committee on Finance, to whom was referred the bill (H. R. 6419) to redefine the terms "stepchild" and "stepparent" for the purposes of the Servicemen's Indemnity Act of 1951, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong.) provides for the payment of a maximum amount of free indemnity of $92.90 monthly for a period of 10 years.

Section 3 of the act provides that such benefits shall be paid "only to the surviving spouse, child or children (including a stepchild, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a stepparent, parent by adoption, or person who stood in loco parentis to the insured at any time prior to entry into the active service for a period of not less than 1 year), brother, or sister of the insured, including those of the half-blood and those through adoption," and in the order named unless designated by the insured in a different order.

The bill would require that the stepchild be a member of the insured's household, unless designated as beneficiary by the insured.

It would also require that a stepparent, unless designated as the beneficiary, show that he stood in loco parentis to the insured prior to the latter's attainment of 21 years of age and for a period of not less than 1 year prior to his entry into active service.

Under existing law a stepchild is included in the term "child" and a stepparent is included in the term "parent" without any specific limiting language in either case. In the past it has been alleged that the bare legal relationship of stepchild and stepparent is sufficient to

constitute a basis of entitlement under section 3 of the Servicemen's Indemnity Act. While such construction is contrary to the present ruling by the Administrator of Veterans' Affairs as shown by Administrator's decisions 952 and 955, the committee deems it advisable to enact clarifying language clearly restricting the payment of indemnity benefits in such cases similar to that providing for the payment of other gratuities such as compensation and pension.

It is not believed that the indemnity should be awarded a stepchild or stepparent by reason of the bare legal relationship by affinity only. Such relationship carries with it none of the ordinary reciprocal obligations of parent and child. This bill would correct the obvious deficiencies of this section.

The representatives of the Veterans' Administration, in testifying on this before a subcommittee of the House Veterans' Affairs Committee, indicated that in the administration of the Servicemen's Indemnity Act a number of cases had developed in which claims have been made by stepchildren and stepparents who in fact had no familial relationship to the serviceman. Since this bill would require that the familial relationship be established, in the absence of a showing of the serviceman's intent by specific designation, it is believed in the interest of all concerned that the bill should be enacted into law.

The bill was amended by the House committee in accordance with the Veterans' Administration recommendation, to include a section dealing with the effective date and discontinuance of awards.

No additional administrative or other costs would be occasioned by enactment of this legislation.

The report submitted by the Veterans' Administration to the House committee is as follows:

JUNE 20, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MR. TEAGUE: This is in reply to your request for a report by the Veterans' Administration on H. R. 6419, 84th Congress, a bill to redefine the terms "stepchild" and "stepparent" for the purposes of the Servicemen's Indemnity Act of 1951, as amended.

The purpose of the bill is to provide a more restrictive definition of the terms "stepchild" and "stepparent" for the purposes of the Servicemen's Indemnity Act of 1951, as amended. Under existing law a stepchild is included in the term "child" and a stepparent is included in the definition of the term "parent" without any specific limiting language in either case. The bill would require that the stepchild be a member of the insured's household, unless designated as beneficiary by the insured. It would also require that a stepparent, unless designated as the beneficiary, show that he stood in loco parentis to the insured prior to the latter's attainment of 21 years of age and for a period of not less than 1 year prior to his entry into the active service.

Section 3 of the Servicemen's Indemnity Act of 1951 provides as follows:

"Upon certification by the Secretary of the service department concerned of the death of any person deemed to have been automatically insured under this part, the Administrator of Veterans' Affairs shall cause the indemnity to be paid as provided in section 4 only to the surviving spouse, child, or children (including a stepchild, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a stepparent, parent by adoption, or person who stood in loco parentis to the insured at any time prior to entry into the active service for a period of not less than one year), brother, or sister of the insured, including those of the halfblood and those through adoption. The insured shall have the right to designate the beneficiary or beneficiaries of the indemnity within the classes herein provided; to designate the proportion of the principal amount to be paid to each; and to change the beneficiary or beneficiaries without the consent thereof but only within the classes herein provided. If the

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designated beneficiary or beneficiaries do not survive the insured, or if none has been designated, the Administrator shall make payment of the indemnity to the first eligible class of beneficiaries according to the order set forth above, and in equal shares if the class is composed of more than one person. Unless designated otherwise by the insured, the term 'parent' shall include only the mother and father who last bore that relationship to the insured.

"Any installments of an indemnity not paid to a beneficiary during such beneficiary's lifetime shall be paid to the named contingent beneficiary, if any; otherwise, to the beneficiary or beneficiaries within the permitted class next entitled to priority: *Provided*, That no payment shall be made to the estate of any deceased person."

The administration of the servicemen's indemnity program has developed cases in which claims have been made by stepchildren and stepparents who, in fact, had no familial relationship to the serviceman. H. R. 6419 is apparently designed to require that such relationship be proven in the absence of evidence of the serviceman's intent by specific designation.

The question of whether a stepchild and a stepparent may qualify as beneficiaries of servicemen's indemnity upon a showing of the bare legal relationship has been of concern to the Veterans' Administration. The committee will be interested to know that after careful consideration of this question it was held in Administrator's decision No. 952, February 7, 1955, that "The bare legal relationship of stepparent is insufficient to constitute a basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951. As a prerequisite to eligibility to the indemnity benefit the stepparent must have exercised a familial relationship to the deceased serviceman." Further, upon a recent reconsideration of a prior decision concerning the eligibility of a stepchild for this benefit it was held in Administrator's decision No. 955 (to be printed under date of June 30, 1955) that "The bare legal relationship of stepchild is insufficient to constitute a basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951." Copies of such decisions are enclosed for the information of the committee.

Notwithstanding the foregoing, it is apparent that the act lacks definitions in these respects; hence the proposed amendment, which would be accomplished by H. R. 6419 and which would clarify the intent of the act as to definition of the terms "stepchild" and "stepparent" is desirable. Favorable action is recommended by the Veterans' Administration.

In order to provide for the orderly discontinuance of certain awards that may be necessitated, and to assure that duplicate payments of benefits will not be required in any case, it is recommended that a section 2 be added to the bill in accordance with the attached draft.

Due to the urgent request of the committee for a report on this measure, there has not been sufficient time in which to ascertain from the Bureau of the Budget the relationship of the proposed legislation to the program of the President.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

SUGGESTED AMENDMENT TO H. R. 6419

SEC. 2. The amendment made by section 1 of this Act shall be effective April 25, 1951, but shall not be construed (1) to require the discontinuance, for any period prior to the first day of the third calendar month following approval of this enactment, of any servicemen's indemnity award made prior to the date of this Act, or (2) to require duplicate payments of benefits in any case.

ADMINISTRATOR'S DECISION, VETERANS' ADMINISTRATION, NO. 952

FEBRUARY 7, 1955.

Subject: Right of stepparent, who exercised no familial relationship, to benefits under section 3, Servicemen's Indemnity Act of 1951

Question presented: Does the bare legal relationship of "stepparent" constitute a legal basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951?

Facts: When the serviceman was about 3 years of age his mother left his father to live with the man who subsequently became the stepfather. Thereafter the serviceman was reared to manhood by his father and paternal aunt. Meanwhile, his father obtained a divorce from his mother, who entered into a ceremonial marriage with the stepfather in August 1944. The servicemen entered service in 1947 and died in 1952, single and without issue. His father died in 1951. There is no record of designated beneficiary for indemnity purposes.

From the time the serviceman was about 3 years of age until his death his mother failed to exercise any of the duties of motherhood. The stepfather was his stepfather in name only, without there having been between them at any time a family relationship in the usual sense. The serviceman was never a member of stepfather's household and the latter never assumed any parental responsibility toward him.

It has been determined that the parents of the servicemen are entitled to indemnity under the distributive provisions of the law, that the aunt rather than the natural mother is entitled to one-half as the last person who bore the relationship of mother.

Comment: Section 3, Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong., 38 U. S. C. 852), provides in part:

"Upon certification by the Secretary of the service department concerned of the death of any person deemed to have been automatically insured under this part, the Administrator of Veterans' Affairs shall cause the indemnity to be paid as provided in section 4 only to the surviving spouse, child or children (including a stepchild, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a stepparent, parent by adoption, or person who stood in loco parentis to the insured at any time prior to entry into the active service for a period of not less than one year), brother, or sister of the insured, including those of the half-blood and those through adoption. The insured shall have the right to designate the beneficiary or beneficiaries of the indemnity within the classes herein provided; to designate the proportion of the principal amount to be paid to each; and to change the beneficiary or beneficiaries without the consent thereof but only within the classes herein provided. If the designated beneficiary or beneficiaries do not survive the insured, or if none has been designated, the Administrator shall make payment of the indemnity to the first eligible class of beneficiaries according to the order set forth above, and in equal shares if the class is composed of more than one person. Unless designated otherwise by the insured, the term "parent" shall include *only* the mother and father who last bore that relationship to the insured." (Italics supplied.)

The then Solicitor and the General Counsel have heretofore expressed the view that the bare legal relationship of stepparent (one who is the spouse of the natural parent), is sufficient to entitle such stepparent to indemnity under Public Law 23, if such stepparent be the last of that sex who stood in the parental relationship (opinion of Mar. 13, 1953, in the case of XC–16 520 248; opinion of the Solicitor, Op. Sol. 145–53; opinion of Dec. 23, 1953, in the case of XC–16 583 113). This view (which incidentally was that of the Comptroller General in relation to similar language in the World War Adjusted Compensation Act) was largely based upon comparison with the terms of the National Service Life Insurance Act (38 U. S. C. 801 et seq.) which limited stepparents to such designated by the insured, and to the fact that there are no such words of limitation in the Servicemen's Indemnity Act of 1951. It is a fact, however, that the Servicemen's Indemnity Act provides a gratuitous—as distinguished from a contractual—benefit; and hence, as stated in opinion of the General Counsel (Op. G. C. 116–54), it may be assumed that the Congress—since it did not define the term—expected or intended the act to be construed as had been other similar gratuity provisions.

The prior opinions may be supported, factually, by affinity as to the spouse of a natural parent who maintained the usual familial relationship to the service person; but the facts in the instant case demonstrate the anomaly of paying the husband of a mother who, as was said, in effect in *Baumet* v. *U. S.* (344 U. S. 82; 97 Law edition 111), disqualified herself by desertion of her child.[1] This requires reconsideration of the meaning of said section 3.

The question under the prior acts as to whether a person who bore the legal relationship of stepparent to the former serviceman is entitled to benefits as a "parent" was first raised in connection with the War Risk Insurance Act, as amended, section 22 (4) of which defined the term "parent" as follows:

"(4) The term 'parent' includes a father, mother, grandfather, grandmother, father through adoption, mother through adoption, stepfather, and stepmother, either of the person in the service or of the spouse."

In an opinion dated March 8, 1919, the then Associate General Counsel of the War Risk Insurance Bureau stated:

"It hardly seems probable that Congress included stepparents and stepchildren as persons within the benefits of the act because of the bare legal relationship by affinity. Such bare legal relationship, under the general law, carries with it none of the ordinary reciprocal obligations of parent and child. It is only when the

[1] This fact makes *U. S.* v. *Henning*, 344 U. S. 66, 97 Law edition 101, inapplicable.

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stepparent has assumed to act in loco parentis that there rise mutual obligations of service and support. * * * It seems very reasonable, therefore, to suppose that the inclusion of stepparents and stepchildren by Congress was based upon the customary family relationship which exists in the great majority of cases where the legal relationship is established, and that consequently it was not the intention that the right to such benefits should be terminated, so long as the family relationship continues to exist."

Subsequently, in an opinion dated December 7, 1933, approved by the then Administrator on December 7, 1933, in the case of XC-335 975, the then Solicitor, after referring to the opinion quoted above, stated in part:

"The act of December 24, 1919, as heretofore stated included stepmothers as members of the permitted class for automatic insurance benefits making the amendment effective as of October 6, 1917. However, a stated by Mr.——— in his memorandum, quoted above, the word implies not only the bare legal relationship by affinity but also an assumption by the stepparent of mutual obligation of service and support, that is, an assumption of a relationship in loco parentis. This theory is well supported in law. * * * I am of the opinion that the reasoning laid down in the opinion of Mr. ———, hereinbefore referred to, should be applied: that the claimant is not entitled as stepmother of the soldier to the benefits of automatic insurance and her claim should be denied. * * *"

In that case as in the case now before us, the stepparent at no time exercised a familial relationship to the deceased serviceman. The reasoning of the opinion above referred to was applied by the War Risk Insurance Bureau, the Veterans' Bureau, and the Veterans' Administration in the administration of laws granting compensation, pension, and automatic insurance since 1919. Of course, dependency was also a factor as to compensation. The Veterans' Bureau and the Veterans' Administration applied the same rule as to adjusted compensation—the Comptroller General dissenting.

As stated in Administrator's decision 951, dated December 30, 1954, the question of intent and effect of a statute, particularly wherein terms are used—as here—without definition, is one fraught with great difficulty. In that case, as here, the term used in section 3, Servicemen's Indemnity Act of 1951 (adopted child), was used in comparable legislation relating to gratuities administered by the Veterans' Administration over a period of many years with a consistent administrative interpretation. It was concluded that the Congress should be presumed to have constructive knowledge of the interpretations of the Veterans' Administration and its predecessors and in the absence of a change in language in the new law to have adopted such construction as applicable thereto. So here, viewing the Servicemen's Indemnity Act of 1951 as more nearly in pari materia with the Compensation Acts, than with the National Service Life Insurance Act.

In the present instance, in addition to including (without definition) the term "parent" in section 3 in the same manner as in the prior comparable legislation, the Congress added the proviso that the term "parent" under the circumstances enumerated, shall include only the mother and father who last bore that relationship to the insured, strengthening the view that a familial relationship must exist between the serviceman and the person claiming as stepparent as a prerequisite to eligibility to the indemnity benefit. The bare legal relationship of stepparent established by the marriage of a stranger to the natural parent of the serviceman, after such parent has been completely and permanently removed from the class of eligible beneficiaries by statutory requirements, as judicially construed, would appear to provide no logical basis for eligibility for the benefit from which the natural parent has been thus excluded. An intention to pro vide for such anomalous result should not be credited to Congress unless the statute plainly requires it.

Held: The bare legal relationship of stepparent is insufficient to constitute a basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951. As a prerequisite to eligibility to the indemnity benefit the stepparent must have exercised a familial relationship to the deceased serviceman. (Opinion of the General Counsel, dated Dec. 17, 1954, approved Jan. 17, 1955.)

This decision is hereby promulgated for observance by all officers and employees of the Veterans' Administration.

H. V. Higley.
Administrator of Veterans' Affairs.

Distribution in accordance with VA form 3-3040, mailing or distribution list.

ADMINISTRATOR'S DECISION, VETERANS' ADMINISTRATION No. 955

JUNE 30, 1955.

Subject: Right of stepchild to benefits under section 3, Servicemen's Indemnity Act of 1951, where no familial relationship exists

Question presented: Does the bare legal relationship of "stepchild" constitute a legal basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951?

Facts: The serviceman died in service on May 29, 1954. He was survived by a widow, four stepchildren, mother, father, and stepfather. Servicemen's indemnity in the amount of $10,000, for which no beneficiary had been designated, is payable.

The serviceman's widow filed claim for servicemen's indemnity, but died before any payments of the benefit had been made to her. The widow is survived by four children by a previous marriage. The permanent custody of these children was given to their father at the time the parents were divorced because, according to the decree, the mother had abandoned and deserted the children. The children were never members of the serviceman's household and the file contains no evidence to show that the serviceman ever saw the children.

Comment: Section 3, Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong.; 38 U. S. C. 852), is in part as follows:

"Upon certification by the Secretary of the service department concerned of the death of any person deemed to have been automatically insured under this part, the Administrator of Veterans' Affairs shall cause the indemnity to be paid as provided in section 4 only to the surviving spouse, child or children (including a stepchild, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a stepparent, parent by adoption, or person who stood in loco parentis to the insured at any time prior to entry into the active service for a period of not less than one year), brother, or sister of the insured, including those of the half-blood and those through adoption. The insured shall have the right to designate the beneficiary or beneficiaries of the indemnity within the classes herein provided; to designate the proportion of the principal amount to be paid to each; and to change the beneficiary or beneficiaries without the consent thereof but only within the classes herein provided. If the designated beneficiary or beneficiaries do not survive the insured, or if none has been designated, the Administrator shall make payment of the indemnity to the first eligible class of beneficiaries according to the order set forth above, and in equal shares if the class is composed of more than one person. Unless designated otherwise by the insured, the term 'parent' shall include only the mother and father who last bore that relationship to the insured."

The case on which Administrator's decision 930, dated April 3, 1953, is based involved the question as to whether the child of the veteran's widow by a prior marriage, who never became a member of the veteran's household, but lived continuously with his natural father, is a stepchild of the veteran within the purview of section 3, Public Law 23, 82d Congress, supra. In the Administrator's decision that question was answered as follows:

"The bare legal relationship of stepchild, while not sufficient for the purposes of an award of death compensation or death pension under the laws administered by the Veterans' Administration, does constitute a legal basis of entitlement to indemnity benefits under section 3, Public Law 23, 82d Congress" (opinion of the Solicitor dated Mar. 17, 1953, approved Mar. 20, 1953, XC–16 582 664).

The foregoing conclusion was influenced largely by the language of section 602 (g) of the National Service Life Insurance Act of 1940, as amended (38 U. S. C. 802 (g)), an act which provides benefits upon a contractual basis existing between the United States and individual veterans. The contractual basis upon which the benefits of the National Service Life Insurance Act are based sets it aside as materially distinct from other acts administered by the Veterans' Administration under which mere gratuities are paid. This distinction was pointed out in Administrator's decision 930, in which it was shown that a stepchild could be recognized as such for death compensation or death pension only if such child had been a member of the household of the person who served.

In considering the question of the analogy between the language of Public Law 23, 82d Congress, and section 602 (g) of the National Service Life Insurance Act of 1940, as amended, it was said in Administrator's decision 930 that—

"The language here under consideration ('including a stepchild, adopted child, or an illegitimate child if the latter was designated,' etc.) undoubtedly derived from section 602 (g) of the National Service Life Insurance Act of 1940, as amended

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(38 U. S. C. 802 (g)) ('including a stepchild or an illegitimate child if designated as beneficiary by the insured'). Was it inadvertent or designed that the qualification 'if designated * * * by the insured' was limited to illegitimate children? As to an 'adopted child,' which term was added to the language, there is obviously no need of designation. (The term 'child' was defined by the National Service Life Insurance Act (sec. 601 (e)) as including an adopted child—and evidently the insertion of the term 'adopted child' in the clause under consideration was to effect the same purpose.) But why was the qualification, or restriction removed as to 'stepchild'? The legislative history of the act does not answer this question.

"Under the rules of statutory construction generally recognized for many years this change in language must have significance." (See Administrator's decision 514 as to adoptive brothers and sisters.)

The conclusion reached in Administrator's decision 930 was due to the fact that the indemnity provided for by Public Law 23, 82d Congress, was considered in that decision as analogous to insurance rather than as a gratuity, as was done in Administrator's decision 952.

In the case on which Administrator's decision 952, dated February 7, 1955, was predicated the question was whether the veteran's stepfather, who was his stepfather in name only, as there was at no time a family relationship between them in the usual sense was a stepfather within the purview of section 3, Public Law 23, 82d Congress. That question was answered as follows:

"The bare legal relationship of stepparent is insufficient to constitute a basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951. As a prerequisite to eligibility to the indemnity benefit the stepparent must have exercised a familial relationship to the deceased serviceman" (opinion of the General Counsel, dated Dec. 17, 1954, approved Jan. 17, 1955).

In reaching the above conclusion in Administrator's decision 952 it was stated among other things that—

"The then Solicitor and the General Counse' have heretofore expressed the view that the bare legal relationship of stepparent (one who is the spouse of the natural parent), is sufficient to entitle such stepparent to indemnity under Public Law 23, if such stepparent be the last of that sex who stood in the parental relationship (opinion of Mar. 13, 1953, in the case of XC–16 520 248; opinion of the Solicitor Op. Sol. 145–53; opinion of Dec. 23, 1953, in the case of XC–16 583 113) This view (which incidentally was that of the Comptroller General in relation to similar language in the World War Adjusted Compensation Act) was largely based upon comparison with the terms of the National Service Life Insurance Act (38 U. S. C. 801 et seq.) which limited stepparents to such designated by the insured, and to the fact that there are no such words of limitation in the Servicemen's Indemnity Act of 1951. *It is a fact, however, that the Servicemen's Indemnity Act provides a gratuitous—as distinguished from a contractual—benefit; and hence, as stated in opinion of the General Counsel, Op. G. C. 116–54, it may be assumed that the Congress—since it did not define the term—expected or intended the act to be construed as had been other similar gratuity provisions.* [Emphasis added.]

Upon reconsideration of the matter it is my present opinion that the rule enunciated in Administrator's decision 952, i. e., that since the indemnity is a gratuity the rules applicable to gratuities rather than those applicable to contract benefits (insurance) should be applied in interpreting the terms which are not specifically defined in Public Law 23, 82d Congress, such as stepchild and stepparent, and that, therefore, the rule enunciated in Administrator's decision 930 should no longer be followed.

Held: (1) The bare legal relationship of stepchild is insufficient to constitute a basis of entitlement under section 3 of the Servicemen's Indemnity Act of 1951.

(2) The rule enunciated in Administrator's decision 930 should no longer be followed (opinion of the General Counsel, dated May 20, 1955, approved June 3, 1955).

This decision is hereby promulgated for observance by all officers and employees of the Veterans' Administration.

H. V. Higley,
Administrator of Veterans' Affairs.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 3 OF PUBLIC LAW 23, 82D CONGRESS, AS AMENDED

SEC. 3. Upon certification by the Secretary of the service department concerned of the death of any person deemed to have been automatically insured under this part, the Administrator of Veterans' Affairs shall cause the indemnity to be paid as provided in section 4 only to the surviving spouse, child or children (including a stepchild, *if designated as beneficiary by the insured or if a member of the insured's household*, adopted child, or an illegitimate child if the latter was designated as beneficiary by the insured), parent (including a *parent by adoption, or person who stood in loco parentis to the insured prior to attainment of twenty-one years of age and for a period of not less than one year prior to entry into the active service, or a step parent who does not meet the loco parentis requirement if designated as beneficiary* [stepparent,] parent by adoption, or person who stood in loco parentis to the insured [at any time prior to entry into the active service for a period of not less than one year]), brother or sister of the insured, including those of the half-blood and those through adoption. The insured shall have the right to designate the beneficiary or beneficiaries of the indemnity within the classes herein provided; to designate the proportion of the principal amount to be paid to each; and to change the beneficiary or beneficiaries without the consent thereof but only within the classes herein provided. If the designated beneficiary or beneficiaries do not survive the insured, or if none has been designated, the Administrator shall make payment of the indemnity to the first eligible class of beneficiaries according to the order set forth above, and in equal shares if the class is composed of more than one person. Unless designated otherwise by the insured, the term "parent" shall include only the mother and father who last bore that relationship to the insured.

Any installments of an indemnity not paid to a beneficiary during such beneficiary's lifetime shall be paid to the named contingent beneficiary, if any; otherwise, to the beneficiary or beneficiaries within the permitted class next entitled to priority: *Provided*, That no payment shall be made to the estate of any deceased person.

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Calendar No. 837

84TH CONGRESS, 1st Session | SENATE | REPORT No. 830

FEES FOR ATTORNEYS IN SUITS INVOLVING WAIVERS OF PREMIUMS

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6832]

The Committee on Finance, to whom was referred the bill (H. R. 6832) to provide for payment of a reasonable attorney's fee by the insured in a suit brought by him or on his behalf during his lifetime for waiver of premiums on account of total disability, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act, the Committee on Finance accepts the report of the House Committee on Veterans' Affairs, which is as follows:

This bill amends section 500 of the World War Veterans' Act of 1924, as amended, to provide that in any suit brought by an insured during his lifetime for waiver of premiums on account of total disability, the court as a part of its judgment or decree shall determine and allow a reasonable fee to be paid by the insured to his attorney.

The present law bars the payment of any fee in excess of 10 percent of the amount recovered and provides that this amount shall be paid by the Veterans' Administration out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each such payment until paid. For example, an insured bringing a successful suit and receiving benefits at the rate of $50 a month would have $5 deducted from such payments each month that the payments continued.

Legislation to provide for a lump-sum payment of attorney fees in this type of suit was introduced in this Congress as H. R. 1622, and considered by the Subcommittee on Insurance. The subcommittee, after considering the matter, rejected that bill with the recommendation that the present bill, H. R. 6832, be approved. The former bill would have provided for the payment by the Government of a lump sum direct to counsel, where the plaintiff was successful but did not specify whether such payment should be made from appropriations of

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the Department of Justice, or national service life insurance appropriation or the national service life insurance fund. Payment from any of such sources would be objectionable.

The Veterans' Administration representative, in testifying on this measure before the subcommittee, conceded "the difficulty in securing the services of an attorney to bring suit in this type of case." The representative also indicated that the Veterans' Administration "would not object to the enactment of legislation to authorize the court to allow a reasonable attorney's fee to be paid by the plaintiff, whether successful or not, if suit is brought during his lifetime."

There would be no additional cost for attorneys' fees to the Government by the enactment of this legislation and the report of the Veterans' Administration on the predecessor bill, H. R. 1622, follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., February 8, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MR. TEAGUE: Reference is made to your letter of January 14, 1955, requesting a report by the Veterans' Administration on H. R. 1622, 84th Congress, a bill to provide for the payment in a lump sum direct to counsel of a reasonable attorney's fee in a suit brought by or on behalf of an insured during his lifetime for waiver of premiums on account of total disability.

The purpose of the bill is to amend section 617 of the National Service Life Insurance Act of 1940, as amended, to provide for the payment in a lump sum direct to counsel of a reasonable attorney's fee in a suit brought by or in behalf of an insured during his lifetime for waiver of premiums on account of total disability, such fee to be determined by the court and to be paid by the insured in an unsuccessful action and paid by the Government where the judgment is entered in the insured's behalf.

H. R. 1622 is identical with H. R. 6929, 83d Congress, on which a report was furnished to your committee by the Veterans' Administration on June 4, 1954 (Committee Print No. 264), a copy of which is enclosed. The report on H. R. 6929 is equally applicable to the present bill.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

JOHN S. PATTERSON,
For H. V. HIGLEY,
Administrator.

[No. 264]

COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., June 4, 1954.

Hon. EDITH NOURSE ROGERS,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MRS. ROGERS: This is in reply to your request for a report on H. R. 6929, 83d Congress, a bill to provide for the payment in a lump sum direct to counsel of a reasonable attorney's fee in a suit brought by or on behalf of an insured during his lifetime for waiver of premiums on account of total disability.

The purpose of the bill is to amend section 617 of the National Service Life Insurance Act of 1940, as amended, to provide for the payment in a lump sum direct to counsel of a reasonable attorney's fee in a suit brought by or in behalf of an insured during his lifetime for waiver of premiums on account of total disability, such fee to be determined by the court and to be paid by the insured in an unsuccessful action and paid by the Government where the judgment is entered in the insured's behalf.

Section 617 of the National Service Life Insurance Act of 1940, as amended, provides:

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"In the event of disagreement as to any claim arising under this Act, suit may be brought in the same manner and subject to the same conditions and limitations as are applicable to the United States Government life (converted) insurance under the provisions of sections 19 and 500 of the World War Veterans' Act, 1924, as amended."

Section 500 of the World War Veterans' Act, 1924, as amended, provides:

"Except in the event of legal proceedings under section 19 of Title I of this Act, no claim agent or attorney except the recognized representatives of the American Red Cross, the American Legion, the Disabled American Veterans, and Veterans of Foreign Wars, and such other organizations as shall be approved by the director shall be recognized in the presentation or adjudication of claims under Titles II, III, and IV of this Act, and payment to any attorney or agent for such assistance as may be required in the preparation and execution of the necessary papers in any application to the bureau shall not exceed $10 in any one case: *Provided, however*, That wherever a judgment or decree shall be rendered in an action brought pursuant to section 19 of Title I of this Act the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees, not to exceed 10 per centum of the amount recovered and to be paid by the bureau out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid. Any person who shall, directly or indirectly, solicit, contract for, charge, or receive, or who shall attempt to solicit, contract for, charge, or receive any fee or compensation, except as herein provided, shall be guilty of a misdemeanor, and for each and every offense shall be punishable by a fine of not more than $500 or by imprisonment at hard labor for not more than two years, or by both such fine and imprisonment."

It will be noted that section 500 limits the fee that may be allowed by the court to an amount not to exceed 10 percent of the amount recovered and to be paid by the Veterans' Administration out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each such payment until paid

In a suit by the insured based on denial of a claim for waiver of premiums on account of total disability, the judgment could not provide for payment of any monetary amount to a successful claimant except the amount of premiums paid subsequent to the commencement of total disability, which, in most instances, would be inadequate to provide a reasonable attorney's fee under the limitations contained in section 500 above noted. The limitations in section 500 make it impractical for an insured, unless acting as his own lawyer, to bring a suit to secure court determination of his claim for waiver of premiums on account of total disability.

The United States is a sovereign and cannot be sued without its consent and, when such consent is given, the United States generally is not liable for costs unless specifically so provided by statute. It would be a departure from long-established policy to provide as proposed by the bill that the Government be required to pay attorneys' fees of a successful plaintiff. Such proposal, if enacted, could be cited as a precedent for requiring the Government to pay attorneys' fees to all successful plaintiffs in suits brought under section 617 of the National Service Life Insurance Act of 1940, as amended, and perhaps under other unrelated consent statutes.

With no limitation on the amount of the fee, this bill, if enacted, could be very expensive. The bill does not provide any appropriation from which attorneys' fees would be payable, and it is not clear whether it is intended that fees should be payable from the appropriations for the Department of Justice, the national service life insurance appropriation, or the national service life insurance fund. It would seem unjust and of questionable validity to burden the national service life insurance fund with such liability.

The Veterans' Administration concedes that the difficulty in securing services of an attorney to bring suit in the event of disagreement as to claim for waiver of premiums on account of total disability while the veteran is alive presents a problem and, if deemed desirable, would not object to the enactment of legislation amending section 500 to authorize the court to allow a reasonable attorney's fee to be paid by the plaintiff (whether successful or not in the court) in suits brought during his lifetime for waiver of premiums on account of total disability. However, this could prevent, in some instances, appeals to the Board of Veterans' Appeals.

The Veterans' Administration recommends unfavorable consideration of the bill in its present form.

Advice has been received from the Bureau of the Budget that there would be no objection by that office to the submission of this report to your committee.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[SECTION 500. WORLD WAR VETERANS ACT OF 1924, AS AMENDED

SEC. 500. Except in the event of legal proceedings under section 19 of Title I of this Act, no claim agent or attorney except the recognized representatives of the American Red Cross, the American Legion, the Disabled American Veterans, and Veterans of Foreign Wars, and such other organizations as shall be approved by the Administrator of Veterans' Affairs shall be recognized in the presentation or adjudication of claims under Titles II, III, and IV of this Act, and payment to any attorney or agent for such assistance as may be required in the preparation and execution of the necessary papers in any application to the Veterans' Administration shall not exceed $10 in any one case: *Provided, however,* That wherever a judgment or decree shall be rendered in an action brought pursuant to section 19 of Title I of this Act the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees not to exceed 10 per centum of the amount recovered and to be paid by the Veterans' Administration out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid [.]*; except that in a suit brought by or on behalf of an insured during his lifetime, for waiver of premiums on account of total disability, the court, as part of its judgment or decree, shall determine and allow a reasonable fee to be paid by the insured to his attorney.* Any person who shall, directly or indirectly, solicit, contract for, charge, or receive, or who shall attempt to solicit, contract for, charge, or receive any fee or compensation, except as herein provided, shall be guilty of a misdemeanor, and for each and every offense shall be punishable by a fine of not more than $500 or by imprisonment at hard labor for not more than 2 years, or by both such fine and imprisonment.

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Calendar No. 838

84TH CONGRESS, 1st Session | SENATE | REPORT No. 831

PROVIDING FOR THE CONSERVATION OF ANTHRACITE COAL RESOURCES THROUGH MEASURES OF FLOOD CONTROL AND ANTHRACITE MINE DRAINAGE

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 7066]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 7066) to provide for the conservation of anthracite coal resources through measures of flood control and anthracite mine drainage, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The United States appears to be in danger of losing its vast reserves of anthracite coal by the flooding of coal formations and extensive networks of underground workings. A program to check and reduce this flooding, as would be implemented by the enactment of H. R. 7066, must be undertaken immediately to prevent such loss.

Importance to the Nation

The economy of the entire northeastern section of the United States is dependent to an appreciable degree on the anthracite industry, and in time of war emergencies the Nation relies heavily on the use of anthracite coal to alleviate the distress caused by shortages of other fuels.

Anthracite reserves

Approximately 5 billion tons of anthracite coal, enough to last 200 years at the present rate of consumption (27 million tons per year), are concentrated in an area of 480 square miles in northeastern Pennsylvania. This vast reserve of fuel is extremely valuable to the United States.

Causes of flooding

The encroachment of water, resulting in progressive flooding of mines, which threatens to submerge the Nation's irreplaceable anthracite reserves, may be attributed to the following causes:

1. The structure of the coal measures in the anthracite region facilitates the accumulation of water in the strata, in abandoned mines, and in active workings.
2. The free flow of water from abandoned mines to active mines through openings driven between properties in early years.
3. Damaged and inadequate barrier pillars between active and abandoned mines.
4. The continued abandonment of anthracite mines over a period of years coupled with an ever-shrinking number of active mines faced with the necessity of coping with increasing quantities of water.

As a result of the intimate interrelationship of adjoining mines, abandonment of a mine and the suspension of pumping in that mine do not reduce pumping in a particular basin. Operating mines gradually assume the pumping loads of all abandoned mines in their basin.

Ratio of water pumped to coal mined

The increasing burden of disposing of encroaching waters is affecting the economics of the anthracite industry to a greater extent each year. In 1920 about 8 tons of water were pumped to the surface for each 1 ton of coal mined. In 1944 the ratio was 14 to 1, increasing to 27 to 1 in 1951, and to 48 to 1 in 1953, while in the year 1954 over 56 tons of water were pumped to the surface for every 1 ton of coal mined.

Problem exceeds industry's means

It is evident that in some districts it has become a physical and financial impossibility for the existing mines to continue the pumping of water from abandoned mines and that this situation is rapidly approaching in other districts of the anthracite region.

From the evidence submitted it appears that unless the Federal Government assists with measures of flood control and the pumping and drainage of water from abandoned anthracite mines, as would be provided by H. R. 7066, irreplaceable anthracite coal reserves will be submerged and lost to our economy.

Program proposed

The Pennsylvania Anthracite Mine Drainage Study Commission appointed by former Governor Fine, of Pennsylvania, has recommended to the Governor a mine rehabilitation program involving a total expenditure of $17 million. Relevant data accumulated by the United States Bureau of Mines during its studies of the situation over the past 15 years were used by the commission in determining the nature of the work to be accomplished through this program.

The program will include the construction of ditches and flumes, backfilling of stripping pits and cropfalls, improvements to stream beds, driving of underground drainage tunnels and gangways, construction of underground dams, and the installation of pumping plants to handle water from abandoned mines.

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Estimated expenditures for surface construction are $7,320,525; for underground work, $3,522,915; and for pumping equipment and installation, $6,074,364. The work, which will require 2 years to complete, will be performed under the direction of the Pennsylvania Department of Mines.

Since 1936, when the Lackawanna River overflowed its banks and inundated active mines, the Commonwealth of Pennsylvania has appropriated funds on several occasions to assist with the water problem. However, the situation has grown to such magnitude that it now becomes of national concern. H. R. 7066, if enacted, would authorize the appropriation of $8,500,000 to be matched by the Commonwealth of Pennsylvania to carry out the program outlined above. The Commonwealth has provided its part of the matching funds.

EXPLANATION OF THE PROVISIONS

The proposed legislation would declare it to be the policy of the Congress to provide for the control and drainage of water in anthracite coal formations so as to conserve national resources, promote national security, prevent injuries and loss of life, and preserve public and private property.

Section 2 authorizes the Secretary of the Interior to make financial contributions to the Commonwealth of Pennsylvania, not to exceed $8,500,000, on a matched-fund basis, for the control and drainage of water which, if not so controlled or drained, would cause the flooding of anthracite coal formations. Contributions shall be made only for such programs or projects as are approved by the Secretary of the Interior and it is expressly provided that such contributions will be expended for drainage works, pumping plants, and related facilities and that no such contributions or equally matched funds shall be used for operating and maintaining such facilities.

Section 2 (d) and (e) provides that the Commonwealth of Pennsylvania shall have full responsibility for installing, operating, and maintaining each project and that the projects shall be so located, operated, and maintained as to provide maximum conservation and, where possible, to avoid creating inequities among those mines affected by the waters to be controlled by the projects.

It should be noted that although the active mining companies in the anthracite coalfields will undertake to operate and maintain pumping facilities installed under the program, as they have with similar installations provided by the Commonwealth of Pennsylvania in past years it may be found necessary for the Commonwealth to assume the burden of operating and maintaining some such facilities when it becomes financially impossible for a particular company to assume such costs. The ultimate responsibility rests with the Commonwealth and the maximum conservation of the Nation's anthracite coal resources is the paramount consideration.

Section 3 provides that the Commonwealth shall furnish to the Secretary of the Interior statements with respect to the program showing accomplishments, expenditures, and obligations, and status.

Section 4 provides for hearings and the suspension of payments should the Secretary of the Interior find there is a failure to expend funds in accordance with the terms and conditions governing the Federal contribution for approved projects.

Section 5 provides that the Secretary of the Interior shall render annual reports to the Congress for a period of 4 years. The reports are to show the progress and accomplishments of the program.

Section 6 authorizes appropriations.

CONCLUSION

The Department of the Interior has reported that H. R. 7066 is wealth-saving legislation for a program entirely practicable. The amount of money that would be authorized by this bill is small compared with the value of the vast natural resource it will help to save or with the direct livelihood of the more than 1 million persons it will affect. Preservation of this unique natural resource will not only provide a continuing source of fuel for anthracite consumers but will assure supplies of high-grade fuel in the event of war emergencies and offer partial security against ultimate depletion of domestic resources of oil and natural gas.

Representatives of the Departments of Interior and Commerce who met with the Pennsylvania Anthracite Mine Drainage Study Commission were impressed with the gravity of the situation and the need for immediate action.

The Department of the Interior has strongly recommended that this legislation be enacted. The Bureau of the Budget has advised that enactment of the legislation would be in accord with the program of the President.

In its favorable recommendation of this legislation the Department of the Interior has said:

> It seems prudent national policy to assist in preserving this basic natural resource of the Nation which is concentrated in this area. Apart from other factors, the preservation of this unique natural resource will provide—
>
> (1) A continuing source of supply for present users,
>
> (2) Fuel insurance during national emergencies,
>
> (3) Availability to national economic expansion as technology develops new uses,
>
> (4) Insurance against the ultimate depletion of domestic oil and gas resources, and
>
> (5) Continued employment of miners.
>
> Beyond this, there is also a national responsibility intertwined with a greater State and local interest in the economic stability of an important region of the Nation. This area has been designated as a distress area. The proposed project will contribute measurably to the immediate relief of this area. It will create direct employment for over 2,000 people on the drainage project and indirect benefits to many others throughout the general area engaged in the production of tools and equipment necessary to the work.

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Calendar No. 840

84TH CONGRESS, 1st Session | SENATE | REPORT No. 832

AMENDING SECTION 622 OF THE NATIONAL SERVICE LIFE INSURANCE ACT OF 1940

JULY 12 (legislative day JULY 11), 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 1617]

The Committee on Finance, to whom was referred the bill (H. R. 1617) to amend section 622 of the National Service Life Insurance Act of 1940, having considered the same, report favorably thereon with an amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

On page 2, line 18, substitute a comma for the colon and add the following:

except that premiums shall not be automatically waived with respect to any policy where the amount of the dividend earned would exceed the amount of the premium waived:

EXPLANATION OF AMENDMENT

The automatic waiver in death cases could result in a reduction of a benefit to the beneficiary inasmuch as dividends on permanent policies could be larger than the cost of pure insurance risk which would be waived by this bill. To avoid this result, provision is made for excluding any policies from the automatic premium waiver where the amount of the dividend earned would exceed the amount of the premium waived.

The House report on this bill is self-explanatory and is as follows:

EXPLANATION OF THE BILL

Under the provisions of section 622, added to the National Service Life Insurance Act of 1940, as amended by Public Law 23, 82d Congress (the Servicemen's Indemnity and Insurance Act of 1951), approved April 25, 1951, a veteran having either United States Government life insurance (World War I), or national service life insurance (World War II), and who is in the service, may elect to have the pure insurance risk portion of a permanent-type policy premium waived, or in the case of a term policy, have the entire insurance premium waived. This is true in the case of those members of the service who elect to retain their insurance on this basis rather than take the protection of the indemnity provided by Public

Law 23. This waiver may be only instituted, however, upon an application in writing signed by the insured.

Many individuals who had national service life insurance were either prisoners of war, missing in action, interned, captured, beleagued or otherwise in such a condition as to prevent their making application in writing for the waiver of this insurance premium. This bill is to correct the situation described above by providing that any insured, as provided in the Missing Persons Act, who has been in the status of missing, missing in action, interned, captured, beleagued, or besieged at any time after April 25, 1951, and before April 26, 1952, shall be entitled to the waiver of premiums on term insurance and that portion of the permanent insurance premium which represents pure insurance risk. Application for this waiver must be made within 120 days after date of enactment of this clause or the date of his return to military jurisdiction, whichever is the later.

Section 2 of the bill is a technical amendment of section 622 required by reason of the automatic waiver of premiums authorized under section 1.

As indicated in the Veterans' Administration report, there is no objection on the part of that agency to the favorable consideration of this measure.

The report of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington 25, D. C., May 18, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington 25, D. C.

DEAR MR. TEAGUE: Reference is made to your request for a report by the Veterans' Administration on H. R. 1617, 84th Congress, a bill to amend section 622 of the National Service Life Insurance Act of 1940.

H. R. 1617 is identical with H. R. 6928, 83d Congress, on which the Veterans' Administration submitted a report to your committee under date of August 12, 1954 (Committee Print No. 283), a copy of which is enclosed. The views expressed in the mentioned report on H. R. 6928 are equally applicable to H. R. 1617, 84th Congress.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

JOHN S. PATTERSON
(For H. V. Higley, Administrator).

[No. 283]

COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., August 12 1954.

Hon. EDITH NOURSE ROGERS,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MRS. ROGERS: Reference is made to your request for a report by the Veterans' Administration on H. R. 6928, 83d Congress, a bill to amend section 622 of the National Service Life Insurance Act of 1940.

Existing provisions of section 622 of the National Service Life Insurance Act of 1940, as amended, authorize, upon written application by the insured, a waiver of all premiums on 5-year level premium term national service or United States Government life insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk becoming due after June 1, 1951, or the first day of the second calendar month following entry into active service, whichever is the later date, and during the remainder of such continuous active service and 120 days thereafter.

The bill, with respect to persons in the active service who were determined to have been in a missing or similar status (as provided in the Missing Persons Act, as amended) at any time after April 25, 1951, and before April 26, 1952, would (1) grant an automatic waiver of all 5-year term premiums due or paid after June 1, 1951, and continue such waiver during the remainder of continuous active service and for 120 days thereafter, in the absence of a request in writing for termination of such waiver; and (2) authorize a waiver for the same period of time of that portion of any permanent insurance premiums representing the cost of the

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pure insurance risk which were due or paid after June 1, 1951, if (*a*) the insured makes application for such waiver within 120 days after the date of enactment of the bill or the date of his return to military jurisdiction from such missing or similar status, whichever is the later date, or (*b*) if the insured dies or is declared dead while in such missing status or if the insured dies on or prior to the last day upon which he may apply for such waiver as set forth in (*a*) above.

It is noted that in death cases under 2 (*b*) above, the bill would provide an automatic waiver of that portion of any permanent insurance premium representing the cost of the pure insurance risk for the periods indicated. Since the insurance will be nonparticipating during the period the automatic waiver is in effect the bill, if enacted, may in some cases adversely affect rights previously acquired under existing law. Dividends on a large percentage of permanent plan United States Government life-insurance policies are considerably larger than the cost of the pure insurance risk and it would not be to the insured's advantage to have a portion of the premiums waived under section 622 of the act. Therefore, in death cases the automatic waiver provided by the bill may result in a reduction of benefits. To avoid this result, it is suggested that, if the bill be considered further, provision be made for excluding any policies from the automatic premium waiver where the amount of the dividend earned would exceed the amount of the premium waived.

Under section 622 of the act, if the policy matures while subject to the premium waiver provision, liability for payment of benefits under such insurance is borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits. This provision would be applicable to cases within the purview of the bill. Since nearly all of the deaths of persons covered by the bill are traceable to the extra hazards of military or naval service and are paid from the insurance appropriations, it is not believed that the additional cost of deaths to the Government of the bill, if enacted, would be heavy. There will probably be a few cases where insureds covered by the bill die after their return to military jurisdiction or separation from service from causes other than extra hazards of military or naval service. However, there are no figures available upon which to base an estimate of such cost.

As to administrative cost, the bill would require the processing of premium waivers, premium refunds to be calculated and made, recalculation of the period for which dividends have been paid, and recovery of overpayment of dividends, etc. It is not known how many persons who were missing, captured, etc., within the purview of the bill have Government life insurance. Accordingly, an accurate estimate of the amount of additional administrative cost cannot be made, although it is believed it would not be large.

Should the bill be amended as suggested herein, the Veterans' Administration would interpose no objection to its favorable consideration by the committee.

Advice was received from the Bureau of the Budget with respect to a similar report on an identical bill, S. 3009, 83d Congress, that there would be no objection to the presentation of the report to the committee.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 622 OF PUBLIC LAW 801, 76TH CONGRESS, AS AMENDED

SEC. 622. After the date of enactment of this section, any person while in active service for a continuous period in excess of thirty days who is insured under national service life insurance or United States Government life insurance shall be entitled, upon written application, to a waiver of all premiums on five-year level premium term insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk, as determined by the Administrator, becoming due after the first day of the second calendar month following the date of enactment of this section, or the first day of the second calendar month following entry into active service, whichever is the later date,

and during the remainder of such continuous active service and 120 days thereafter: *Provided*, That no premium shall be waived under this section for any period [prior to] *before* the date of application therefor, *except that if the insured is determined, as provided in the Missing Persons Act (56 Stat. 143), as amended, to have been in a status of missing, missing in action, interned, captured, beleaguered, or besieged, at any time after April 25, 1951, and before April 26, 1952, (A) all premiums due or paid after June 1, 1951, on five-year level premium term insurance shall, during the period of such status and during the remainder of his continuous active service and one hundred and twenty days thereafter, be waived unless the insured requests in writing that this waiver be terminated; and (B) that portion of any permanent insurance premiums due or paid after June 1, 1951, which represents the cost of the pure insurance risk shall, during the period of such status and during the remainder of his continuous active service and one hundred and twenty days thereafter, be waived if the insured applies therefor within one hundred and twenty days after the date of enactment of this clause or the date of his return to military jurisdiction, whichever is later, or if the insured dies or is declared dead while in such missing status or if the insured dies on or prior to the last day upon which he may apply for such waiver under this clause, except that premiums shall not be automatically waived with respect to any policy where the amount of the dividend earned would exceed the amount of the premium waived: Provided*, That if the term of any five-year level premium term insurance on which premiums have been waived under this section expires while the insured is in active service, such term shall be automatically renewed for an additional five-year period and the premiums due at the then attained age shall be waived as provided above: *Provided further*, That [the election by an insured of the] premium waiver benefits [of] *under* this section [shall thereby] render [his] *the* contract of insurance nonparticipating during the period [such] *a* premium waiver is in effect: *Provided further*, That whenever benefits under such insurance become payable because of the maturity of such policy of insurance while the insured is in active service or within one hundred and twenty days thereafter, liability for payment of such benefits shall be borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 2¼ per centum per annum as to insurance issued under sections 620 and 621, at the rate of 3 per centum per annum as to other national service life insurance, and 3½ per centum per annum as to United States Government life insurance. The Administrator is authorized and directed to transfer from time to time from the national service life insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

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Calendar No. 841

84TH CONGRESS, 1st Session | SENATE | REPORT No. 833

TRANSFER OF LAND TO CITY OF CLARKSBURG, W. VA.

JULY 12 (legislative day, JULY 11) 1955.—Ordered to be printed

Mr. LEHMAN, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 6796]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 6796) to provide for the conveyance to the city of Clarksburg, W. Va., of certain property which was donated for use in connection with a veterans' hospital, and which is not being so used, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

This bill authorizes and directs the Administrator of Veterans' Affairs to convey to the city of Clarksburg, W. Va., without monetary consideration, all right, title, and interest to a tract of land of approximately 41 acres in size which is situated on a portion of the reservation of the Veterans' Administration hospital in that city, and which is currently leased to the city.

The exact legal description of the land is to be determined by the Administrator, and section 2 of the bill requires that the deed of conveyance shall provide that the land be used for park and recreational purposes only and in a manner which, in the judgment of the Administrator, is consistent with the care and treatment of patients in the Veterans' Administration hospital. If either of these conditions is violated, the title of the land shall revert to the United States.

Pursuant to the act of July 30, 1947, the Veterans' Administration acquired approximately 93 acres of land in Clarksburg for a proposed hospital. The cost was approximately $62,500, half of which was paid by the United States and the remainder by the citizens of the city of Clarksburg. A hospital was subsequently erected on the land and is presently operating 184 beds.

The above-cited act also directed the Administrator to lease to the city of Clarksburg for a nominal consideration such portion of the land

as was not needed for the purposes of the hospital, and upon condition that it would be maintained by the city as a public park. This action was taken under date of June 1, 1948, with the provision that the lease could be canceled upon 90 days' notice. Recently the city requested that the lease be amended to delete the 90-day notice clause and to grant the city a lease for a term of years. The Veterans' Administration does not have authority to grant the type of lease requested and it is for that reason that this legislation is necessary.

The Veterans' Administration interposes no objection to the transfer of this land and believes that its use for the purposes set forth above would not interfere with the present or prospective operation of the Veterans' Administration hospital.

No additional appropriation of Government funds would be made necessary by the enactment of this proposal.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF JULY 30, 1947 (61 STAT. 6771)

AN ACT To authorize the Veterans' Administration to acquire certain land as a site for the proposed Veterans' Administration facility at Clarksburg, West Virginia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed (1) to acquire as a site for the proposed Veterans' Administration facility at Clarksburg, West Virginia, the tract of land in Harrison County, West Virginia, situated between the West Fork River and the line of the Clarksburg and Western Electric Railway and known as the Maxwell estate; [(2) to lease to the city of Clarksburg, West Virginia, at a nominal consideration, so much of the westerly portion of such tract as is not presently needed for the purposes of such facility, upon condition that such portion be maintained by the city of Clarksburg as a public park until such time as it may be needed for the purposes of such facility, and upon such further terms and conditions as may be agreed upon by the Administrator and such city;] [(3)] *(2)* to grant to the State of West Virginia a right-of-way across such tract of land for a public highway connecting United States Highway Numbered 19 with the highway known as the Clarksburg-Mount Clare Road; and [(4)] *(3)* to enter into an agreement with the State Road Commission of the State of West Virginia to bear not to exceed 35 per centum of the costs of construction of such public highway and any necessary bridges thereon.

Approved July 30, 1947.

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Calendar No. 842

84TH CONGRESS, 1st Session | SENATE | REPORT No. 834

LIMITATION ON APPLICATION FOR UNEMPLOYMENT COMPENSATION

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. LEHMAN, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 4946]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 4946) to amend title IV of the Veterans' Readjustment Assistance Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

Title IV of the Veterans' Readjustment Assistance Act of 1952 provides for unemployment compensation to the veterans of the Korean conflict under the State system but in no case in an amount less than $26 a week or to continue longer than 26 weeks. There is no terminal date, however, for this legislation other than the one established by the President's proclamation of last January, ending eligibility for certain benefits for Korean veterans, which provides that there shall be no unemployment compensation paid after January 31, 1960. Legislation of this general type was requested in the President's budget message of January 17, 1955.

The bill as reported by the committee provides that no unemployment compensation shall be paid for any week commencing more than 3 years after the effective date of the amendment made by the bill or 3 years after the effective date of the discharge or release of the person eligible for such a benefit, whichever is the later date. Provision is also made, in line with the President's proclamation, that no unemployment compensation shall be paid under this title for any period after January 31, 1960.

GENERAL STATEMENT

The House Veterans' Affairs Committee directed a series of questions to the Secretary of Labor concerning the administration of

title IV of the Veterans' Readjustment Assistance Act. The material furnished by the Department of Labor indicates that the program is generally working well. For the benefit of the Senate this information is reproduced below:

UNITED STATES DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 26, 1955.

Hon. OLIN E. TEAGUE,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN TEAGUE: In further response to your letter of March 2, 1955, and the questions attached, I am forwarding a copy of a report prepared by the Bureau of Employment Security.

I appreciate the opportunity you have given us to furnish information concerning the operation of the program of unemployment compensation for veterans and shall be glad to supply any additional materials you may desire. If at any time we can be of further assistance to you, please let me know.

Sincerely yours,

JAMES P. MITCHELL,
Secretary of Labor.

UNITED STATES DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Washington, D. C., April 18, 1955.

To: The Secretary.
From: Robert C. Goodwin.
Subject: Information requested by Congressman Teague, chairman of the Veterans' Affairs Committee, on operations of the unemployment compensation for veterans program.

Congressman Teague in his letter of March 2, 1955, asked a series of questions about the operations of the unemployment compensation for veterans program provided for under title IV of the Veterans' Readjustment Assistance Act of 1952, and requested answers to those questions by April 15 if possible.

Several of the questions he asked required information from State employment security agencies. We requested six representative State agencies to provide information as to amounts of benefits paid under title IV and the length of time it takes veterans to earn rights to State unemployment compensation benefits. We believe the findings are generally representative of UCV operations and experience in all State agencies.

Our replies to his questions follow:

"1. What percent of applicants have filed within 3 months of date of discharge? What percent 3 to 12 months? What percent after 1 year?"

Periodic surveys of those veterans who have filed claims for title IV benefits under the Veterans' Readjustment Assistance Act of 1952 show that 15 percent did so within 3 months of the date of discharge; 65 percent filed within 12 months of discharge; 80 percent within 15 months; 90 percent within 24 months; and 97 percent within 36 months. The remaining 3 percent first filed claim for benefits four or more years after their date of separation from service.

"2. What evidence is available to indicate whether veterans are or are not 'milking' their full entitlement to $676? What percent of claimants have drawn under $100 in benefits; $100 to $200; $201 to $300; $301 to $400, etc.?"

Statistical samplings made by State agencies indicate that title IV veterans are not "milking" the benefits afforded by the act. The following figures indicate the percentage of veteran claimants drawing varying amounts of benefits:

33 percent received under $100.
15 percent received $100 to $200.
13 percent received $200 to $300.
9 percent received $300 to $400.
8 percent received $400 to $500.
7 percent received $500 to $600.
15 percent received $600 to $676.

Other evidence, indicating that title IV veterans are not "milking" benefits under this program, is found in the percentage relationship between the 530,626 veterans, who received at least one UCV payment in the period October 15, 1952–January 31, 1955, and the 84,636 veterans who had exhausted their UCV benefits during the same period. These figures indicate that only 15 percent of the total number of veterans who had drawn at least one UCV benefit payment

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had exhausted their benefit rights under the program through January 1955. The proportion of exhaustions to the 3,562,000 discharged as of January 1, 1955, is 2.4 percent.

"3. What is the rate of insured unemployment among Korean veterans? What is the rate among non-Korean males? (Use same age bracket for both Korean and non-Korean group)."

The rate of insured unemployment among Korean veterans in the labor force in calendar year 1954 was 3.7 percent. The rate of insured unemployment under State unemployment insurance programs was 5.2 percent in the same period.

No statistics are gathered by the State agencies or the Bureau which would indicate the rate of insured unemployment among non-Korean males in the same age bracket to enable us to make a comparison.

"4. What is the average amount of weekly benefits by States? How does it compare with the average for the general State program? How does it compare with average weekly earnings by States? (Is there a particular problem in connection with the benefit as it is administered in Puerto Rico, and what administrative procedure is followed in Puerto Rico which may be somewhat different from that generally found to exist in the States?)"

Table I, enclosed, indicates that for the calendar year 1954 an average weekly payment of $23.11 was made under the UCV program while the average weekly payment under the State program was $24.15. In addition to average payments by States, the table shows the average weekly wages by States and the weekly benefit payments under each program as a percentage of the average weekly wage.

The continuing analyses and evaluations of Puerto Rico reports and periodic site audits of UCV operations by Bureau officials indicate that there is excellent administration of the UCV program.

Puerto Rico does not have a State unemployment insurance program; therefore, no UCV supplemental payments are made by Puerto Rico. A proposal, however, is before the Puerto Rican Legislature to provide an unemployment insurance program for Puerto Rico.

We estimate that the average Puerto Rican weekly wage is $22 based on taxable wage data released by the Bureau of Old-Age and Survivors' Insurance and on the findings of a special study conducted by the Puerto Rican Department of Labor (A Study on the Establishment of a System of Unemployment Compensation in Puerto Rico prepared by Special Economic Studies Division of the Puerto Rico Department of Labor—November 1954).

"5. How effective is your procedure on preventing duplicate filing by a veteran? In preventing a veteran from drawing more than $676?"

Procedures which prevent payment of duplicate claims exist at Federal and State levels.

The Bureau of Employment Security maintains a control file by serial number of all title IV claimants who have filed for benefits under this act. This file provides prompt detection of instances where a claimant files for title IV benefits in more than one State. The regional offices of the Bureau periodically review the administration of the UCV program, and send in a random list of claimants' serial numbers which are checked against the control file to insure that a control card is in the veterans control file for each UCV claim in State agency files.

The veterans control file has detected and State agencies have been notified of 11,000 instances of duplicate filing of claims in more than one State. It should not be construed that each of the insterstate duplicate claims detected was an attempt to defraud the Government. Many of these duplicate claims were undoubtedly filed because of the veterans' misunderstanding of unemployment insurance procedures when they were moving from place to place in search of work.

State agencies maintain various files (wage records, claims records, in alphabetical and social-security number order), in addition to complete wage and employment records concerning claimants, both UCV and UI, which permit prompt detection of duplicate claiming in more than one local employment office within the State.

Through an agreement between the Secretary of Labor and the Administrator of Veterans' Affairs, the State agencies quarterly send a list of the recipients of UCV payments during 1 week in the quarter to regional Veterans' Administration offices to detect whether any of them are drawing education, training, or subsistence allowances concurrently with weekly benefits for unemployment. Moreover, the Federal procedure provides that each claimant be regularly questioned as to whether or not he is receiving such allowances.

The same methods State agencies use to prevent payments in excess of the total benefit amount due a State unemployment insurance claimant are in use to pre-

clude paying more than $676. In the State central office, use of weekly reducing balances on each claimant's ledger account precludes overpayment. In addition, a memorandum record of benefit payments and balances is maintained for each claimant in the local office where the claim is taken. The central office control records and the local office records act as independent checks against each other, and payments of claims are promptly stopped and the claimant account audited where the propriety of payment is in question. As a part of the administrative reviews conducted by the Bureau, claimant accounts are test-checked to insure that the established control procedures are being carried out. Our experience convinces us that the State agency control systems prevent benefit payments in excess of the maximum $676 permitted under title IV of the act.

"6. What steps have you taken to insure that full entitlement to the regular State benefit is tapped before UCV benefits are paid?"

Several Federal procedures which have been integrated with regular State procedures insure that available State benefits will be paid prior to the time that UCV funds are used. At the time a veteran first files a claim he is closely questioned as to (1) employment which may have occurred between the date of his separation and the date on which he files a claim for unemployment insurance; (2) any employment engaged in during off-service hours while still in the service; and, (3) employment prior to induction or enlistment and the State from which he entered into service. Eighteen States have "frozen wage credit" provisions in the State laws which permit wage credits earned prior to entrance on military duty to be carried over to the period after separation from service. In the event that the veteran is unable to find employment after separation, these "frozen" State wage credits are made available to him for unemployment insurance purposes.

When a veteran files a claim for title IV benefits, complete records of the claimant's employment and wage history are prepared in the local and central offices of each State agency. The local office compiles a complete employment history at the time the claimant files a new claim, and looks for wages earned in another State which are immediately usable for benefit purposes or may be usable in the future. The central office is informed as to the interstate wage credit findings and a control file is set up for the new claimant. Claimants filing continued claims are closely questioned at 5-week intervals to assure that employment histories are complete and that all possibilities of interstate wage credits are being, or will be, exhausted before UCV funds are utilized. In order to find intrastate wages, State wage record files are reviewed at the beginning of each calendar quarter.

Claimants having a history of employment with railroads are referred to a claim agent of the Railroad Retirement Board for filing a claim against wage credits accumulated under the provisions of the Railroad Unemployment Insurance Act.

There are no particular problems resulting from the integration of UCV procedures with normal State procedures so as to insure the use of all available State wage credits before payments are made from UCV funds. The established practices of State agencies permit an easy absorption of the UCV responsibilities in this respect. Site audits of State agency UCV operation by national office and regional office staff have indicated that available State wage credits are fully utilized.

"7. What questionable or anomalous situations have arisen because the pertinent State law as to eligibility for benefits is applied to a veteran?"

Several anomalous situations have arisen in the administration of the UCV program because of the application of State employment security laws. One concerns the disqualifications in State laws for voluntary quits. These disqualifications take many different forms. One provision that occurs in several State laws requires the individual who has quit a job to become reemployed and earn a specified amount of money in employment covered by the State unemployment insurance laws before he can again qualify for unemployment compensation. This provision affects particularly the young Korean veteran who went into the Armed Forces immediately from school and accepts the first job he finds on leaving the service. The work may be unsuitable or he may regard it as a temporary stopgap until he finds something permanent. In any event, he leaves it and is disqualified. Had he not obtained the job from which he quit but made application for benefits, he would have been paid without question. However, the fact that he took a job and later quit it precludes him from receiving benefits until he has earnings from a subsequent job. The transition from military life to civilian pursuits is not easy, and the fact that these veterans have had no work experience on which to plan a future occupation has caused, in many instances, considerable job shopping. Some State agencies have arbitrarily refused

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to disqualify a veteran for leaving the first job. Others, however, have not felt that they could do so under the provisions of the law.

The second situation arises where two disqualifications are assessed against the veteran for the same disqualifying act—one under the Federal law and one under the State law. This situation grows out of the requirement of some State laws that disqualifications begin from the date of the filing of a claim rather than from the date of the disqualifying act. Take, for example, a veteran who commits a disqualifying act and who would not be entitled to use State wage credits for another 3 months. He files a UCV claim, and serves his disqualification. At the turn of a new calendar quarter State credits become available. Since the employer has an interest in the separation and in the charging of the benefits on the State claim, it is necessary for the State agency to apply the disqualification for the second time. In a few States, the State law permits the agency to overcome the problem by not charging the employer's account, and considering the disqualification as having been satisfied during the period the veteran was filing for UCV. In those States where it is not possible to avoid charging benefits to the employer's account the veteran is placed in double jeopardy. Although the Bureau does not consider application of dual disqualifications to be in keeping with the intent of the act, it cannot act to prevent them because of the nature of the Federal and State laws involved.

"8. How would you evaluate the present system against the World War II 52-20 program?"

Despite the anomalies outlined above, we think the unemployment-compensation-for-veterans program provided in Public Law 550, 82d Congress has many advantages over the servicemen's readjustment allowance program under Public Law 346 of the 78th Congress. The most significant difference is that the current act is coordinated with existing State laws and utilizes State eligibility and disqualification provisions, while the 1944 act superimposed special eligibility and disqualification requirements. A second difference that we think is desirable is that the current law is a supplemental program which requires that the veteran use and exhaust any State rights that he may have before using his Federal benefits, while the 1944 act required the veteran to make a choice between Federal and State benefits.

Any comparison of the two programs, of course, must take into account the difference in the number of individuals having rights under each of the programs, and the economic conditions that existed under each of the programs. In 1946, the armed services demobilized over 10 million men in less than 1 year. We were changing our economy from a wartime basis to peacetime, and a much higher percentage of veterans were unable to find employment immediately after separation than has been the case with the Korean veterans. When the program started October 15, 1952, there were 1¼ million veterans eligible for these benefits. The number has grown from then at a very steady pace of approximately 100,000 per month.

Finally, the experience gained in the State-Federal operation of the SRA program has been of incalculable value in the current program. We have drawn on that experience continuously.

"9. Is it a valid assumption that a veteran, after a reasonable period of transition, tends to acquire rights to the regular State UC benefits? Do you have any estimates as to the general time period required under existing economic conditions for a veteran to earn rights under the regular State program? Is this assumption weakened by exclusions from coverage?"

We requested six State agencies to screen all veterans who filed initial (or first) claims during the third quarter of 1953, against wage record files for that quarter and the four succeeding quarters to obtain information as to the proportion of veterans who earned sufficient wage credits to make them eligible for compensation.

The State reports show that approximately 65 percent of the title IV claimants earned State wage credits during the five quarters and two-thirds of these earned sufficient wage credits to entitle them to State benefit payments.

It is true that the extent to which veterans can acquire State rights is limited by lack of coverage under State laws. Persons employed in the excluded jobs, such as in agriculture, nonprofit institutions, and those working for employers who do not hire enough workers to be covered by State law, obviously do not accumulate State rights. During fiscal year 1954, only 55 percent of the civilian labor force was insured.

"10. What is your judgment on the adequacy of the placement operations being performed by the State offices? Are these veterans being given less emphasis because the benefits are paid by Federal funds? Is the placement process being used to assure that benefits are being paid only to veterans unemployed for valid reasons?"

It is our opinion that an excellent job is being done by the State employment service in placing veterans in jobs. This belief is substantiated by the fact that nearly one-third of the veterans who file new claims do not keep their claims active to the point of receiving a first benefit payment.

An informational program concerning job opportunities and job placement is provided by the employment service at centers where veterans are separated.

State and National requirements also emphasize the placement of veterans. All applicants who are veterans, whether claiming unemployment benefits or not, are given job assistance in accordance with individual needs and qualifications for job openings. The claim status of the veteran is not a factor in the effort made to place him in the shortest possible time.

All veterans are given priority over nonveterans in the selection and referral to jobs. Local offices have interviewers and veterans' representatives who are especially trained to assist the veteran in his job problems. Counseling, testing, individual job development, and labor market information are made available to veterans needing such assistance.

The monthly activity reports submitted from all State offices indicate that the veterans have received extensive placement assistance. In the calendar year 1954 only 40 percent of all new male applicants for work were veterans, but they accounted for 48 percent of all the male nonagricultural placements during that period. For the past 5 years, the proportion of veteran placements to total male placements has been higher than the proportion of veteran new applicants to total male new applicants.

We think that the provisions in Public Law 550 requiring payments to be made by the State employment security agency under the applicable provisions of the State unemployment compensation law with the same eligibility requirements and the same disqualifications prevent the payment of Federal funds to veterans unless they are unemployed for valid reasons.

We believe the program is running well; that the veterans generally are not "milking" the fund nor attempting to obtain benefits improperly; and that they are being given careful, special help in finding suitable work. We believe the program and the law on which it is based are beneficial to the veterans.

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TABLE I.—*Comparison of UCV program with State UI programs, by State, calendar year 1954*

	Weekly average payment for all unemployment		Average weekly wage, April–June 1954	Weekly benefit payment as percent of average weekly wage	
	UCV	State UI		UCV	State UI
Total	[1] $23.19	$24.15	$73.26	[2] 31.5	32.0
Region I:					
Connecticut	21.75	26.42	75.95	28.6	34.8
Maine	22.28	18.11	60.88	36.6	29.7
Massachusetts	19.30	24.03	66.35	29.1	36.2
New Hampshire	17.95	19.84	59.83	30.0	33.2
Rhode Island	19.94	22.69	64.85	30.7	35.0
Vermont	19.28	21.46	62.83	30.7	34.2
Region II:					
New Jersey	25.19	27.82	78.99	31.9	35.2
New York	22.82	25.81	79.58	28.7	32.4
Puerto Rico	25.98		22.00		
Virgin Islands	25.80				
Region III:					
Delaware	18.53	21.38	74.88	24.7	28.6
District of Columbia	21.45	18.43	69.49	30.9	26.5
Maryland	24.23	24.77	65.18	37.2	38.0
North Carolina	23.12	16.57	53.82	43.0	30.8
Pennsylvania	24.57	25.54	69.57	35.3	36.7
Virginia	23.01	18.95	60.25	38.2	31.5
West Virginia	23.07	22.51	73.65	31.3	30.6
Region IV:					
Alabama	22.87	18.01	59.32	38.6	30.4
Florida	21.70	17.60	61.87	35.1	28.4
Georgia	24.08	18.66	56.51	42.6	33.0
Mississippi	24.40	18.57	50.53	48.0	36.5
South Carolina	23.07	18.05	55.43	41.6	32.6
Tennessee	23.68	18.82	61.18	38.7	30.8
Region V:					
Kentucky	23.65	22.10	65.52	36.1	33.7
Michigan	25.60	29.35	89.82	28.5	32.7
Ohio	23.76	28.35	78.52	30.3	36.1
Region VI:					
Illinois	24.16	24.48	81.30	29.7	30.1
Indiana	24.06	24.16	76.46	31.5	31.6
Minnesota	20.45	22.29	70.10	29.2	31.8
Wisconsin	25.81	28.20	75.44	34.2	37.4
Region VII:					
Iowa	24.04	21.44	67.51	35.6	31.8
Kansas	22.19	23.47	71.28	31.1	32.9
Missouri	20.17	20.38	71.38	28.3	28.6
Nebraska	24.72	23.19	65.44	37.8	35.4
North Dakota	24.05	25.05	65.90	36.5	38.0
South Dakota	23.76	22.13	61.51	38.6	36.0
Region VIII:					
Arkansas	23.16	17.70	50.84	45.6	34.8
Louisiana	24.10	21.63	63.68	37.8	34.0
Oklahoma	24.50	23.23	70.52	34.7	32.9
Texas	23.17	17.71	69.63	33.3	25.4
Region IX:					
Colorado	24.87	25.16	71.37	34.8	35.3
Montana	20.53	20.55	64.94	31.6	31.6
New Mexico	24.03	24.07	65.91	36.5	36.5
Utah	25.27	24.67	64.66	39.1	38.2
Wyoming	23.74	27.75	65.68	36.1	42.3
Region X:					
Arizona	22.27	21.40	73.77	30.2	29.0
California	20.91	23.35	80.30	26.0	29.1
Hawaii	22.22	19.83	58.34	38.1	34.0
Nevada	23.40	29.43	78.56	29.8	37.5
Region XI:					
Alaska	24.29	33.99	117.30	20.7	29.0
Idaho	23.85	23.06	64.80	36.8	35.6
Oregon	20.82	22.35	77.14	27.0	29.0
Washington	23.79	24.41	77.06	30.9	31.7

[1] Includes Railroad Retirement Board, Puerto Rico, and Virgin Islands.
[2] Excludes Railroad Retirement Board, Puerto Rico, and Virgin Islands.

The reports of the Veterans' Administration and the Department of Labor follow:

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, May 17, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN TEAGUE: I should like to express my views on H. R. 4946, a bill to amend title IV of the Veterans' Readjustment Assistance Act. The bill is a part of the legislative program of the Department of Labor and the Bureau of the Budget advises that its enactment would be in accord with the program of the President.

The proposed legislation would amend title IV of the Veterans' Readjustment Assistance Act of 1952, as amended (38 U. S. C. 901 et seq.) by placing a limit on the time within which a veteran may file for unemployment compensation benefits under title IV.

The present language of the act permits veterans to secure unemployment compensation benefits upon discharge from the service to the extent that they are not eligible under State law. The President's proclamation of January 1, 1955, provides that all benefits shall cease under this program on February 1, 1960. However, since the act does not put any limit upon the time within which a veteran can file for benefits while the program is in operation, he is eligible for benefits at any time prior to February 1, 1960, regardless of when he was discharged, as long as he has not drawn the maximum amount. As a result, costs will continue and records will have to be kept on each veteran until he has drawn the maximum amount, or until the program ceases. A veteran who has qualified for benefits under a State unemployment compensation law will be able to secure supplemental benefits under title IV, if the State benefits are smaller either in duration or amount, until the veteran has received a total of $676 under title IV.

I believe, therefore, that the act should be amended to provide that an exserviceman shall not be eligible for these special benefits more than 3 years after his discharge or the effective date of the amendment, whichever is later, except where the veteran has pursued education and training or vocational rehabilitation programs provided by the act or regulations thereunder. A 3-year period is sufficiently long to enable the veteran to make the adjustment from military to civilian life and to give him an opportunity to accumulate wage credits under the State program. The Servicemen's Readjustment Act of 1944, which provided unemployment compensation for World War II veterans, contained a time limitation of 2 years.

I recommend that H. R. 4946 be enacted.

Sincerely yours,

JAMES P. MITCHELL,
Secretary of Labor.

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., May 12, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MR. TEAGUE: Reference is made to your request for a report by the Veterans' Administration on H. R. 4946, 84th Congress, a bill to amend title IV of the Veterans' Readjustment Assistance Act.

The purpose of the bill is to amend section 409 of title IV of the Veterans' Readjustment Assistance Act of 1952 to provide (*a*) That no unemployment compensation shall be paid under that title for any week commencing more than 3 years after the effective date of the amendment made by the bill or 3 years after the effective date of the discharge or release of the veteran from active service as prescribed in section 407 (a) of the act, whichever is the later date; and (*b*) that if the veteran has pursued a program of education or training or vocational rehabilitation for a period in excess of 2 years after the 90th day after the date of enactment of the act, or after discharge or release from active service, whichever is the later, no compensation would be paid for any week commencing more than

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1 year after the termination of his program of education or training or vocational rehabilitation or 5 years after his discharge or release from active service, whichever is the earlier. The bill further provides that in no event shall unemployment compensation be paid for any period after January 31, 1960.

The termination date for the whole program under section 409 of the act is "5 years after the date determined by Presidential proclamation or concurrent resolution of the Congress prescribed in section 407 (a)." The President, by Proclamation 3080, dated January 1, 1955, determined February 1, 1955, for the purposes of section 407 (a), as the date prior to which persons must have served in the active service in the Armed Forces (on or after June 27, 1950) in order to come within the meaning of the term "veteran."

Title IV of the Veterans' Readjustment Assistance Act of 1952 provides for the payment to veterans of unemployment compensation at the rate of $26 per week with respect to weeks of unemployment (not in excess of a total of 26 weeks). A veterans is defined in section 407 (a) of the act as "any person who has served in the active service in the Armed Forces at any time on or after June 27, 1950, and prior to such date as shall be determined by Presidential proclamation or concurrent resolution of the Congress [February 1, 1955], and who has been discharged or released from such active service under conditions other than dishonorable after continuous service of ninety days or more, or by reason of an actual service-incurred injury or disability."

That portion of the bill which would amend section 409 of the Veterans' Readjustment Assistance Act of 1952 so as to limit the period during which unemployment compensation for veterans may be paid to a specific length of time after discharge is consistent with the philosophies surrounding the development and passage of the Veterans' Readjustment Assistance Act of 1952, which is intended to provide assistance to veterans in their readjustment from military to civilian life. For example, title II, containing the educational and vocational assistance provisions of the act, limits the time for entering training to 3 years after discharge or August 20, 1954, whichever is later.

Section 700 of the Servicemen's Readjustment Act of 1944, as amended, relating to the payment of readjustment allowances, a similar benefit authorized for World War II veterans, provides that any week of unemployment for which the allowance is claimed must occur not later than 2 years after discharge or release or the termination of the war (July 25, 1947), whichever is the later date.

It is noted that H. R. 7656, 82d Congress, 2d session, which became the Veterans' Readjustment Assistance Act of 1952, as originally passed by the House of Representatives, did not contain a provision for the payment of unemployment compensation. However, during consideration of the bill by the Senate, an amendment offered by Senator Ferguson from the floor to provide such a benefit was adopted and the bill as amended was passed by the Senate. A provision of that amendment would have prohibited the payment of unemployment compensation for any week of unemployment occurring later than 15 months after the date of enactment or the date of discharge or release from active service, whichever date would have been the later, with an overall cutoff provision of 5 years such as is contained in the present law. Subsequently, in conference, the provisions of the Senate amendment were modified to eliminate any time limitation with respect to the date of discharge from service but continued the present overall cutoff date of 5 years after the close of the service period.

The amendment proposed in subsection (a) of section 409 conforms with the recommendation on this subject made by the President in his budget message of January 17, 1955, to the Congress and appears to be a reasonable limitation for providing this readjustment benefit. The amendment proposed in subsection (b) of section 409, extending the cutoff date for veterans pursuing a program of education or training or vocational rehabilitation, would grant a privilege not available to World War II veterans similarly situated. It would appear, however, that the Department of Labor, the administering agency for the program and advocate of the subject legislation, is of the view that it would be equitable to toll the running of the period in the case of the special groups mentioned.

Advice has been received from the Bureau of the Budget with respect to a companion bill, S. 1418, that its enactment would be in accord with the program of the President.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 409 OF PUBLIC LAW 550, 82D CONGRESS

SEC. 409. [No compensation shall be paid under this title for any week commencing more than five years after the date determined by Presidential proclamation or concurrent resolution of the Congress prescribed in section 407 (a).]

(a) No compensation shall be paid under this title for any week commencing more than three years after the effective date of this amendment to this section or the effective date of the discharge or release prescribed in section 407 (a), whichever is the later date.

(b) In no event shall compensation be paid under this title for any period after January 31, 1960.

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Calendar No. 843

84TH CONGRESS, 1st Session | SENATE | REPORT No. 835

LAND TRANSFER TO NORTH LITTLE ROCK, ARK.

JULY 12 (legislative day JULY 11), 1955.—Ordered to be printed

Mr. LEHMAN, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 4225]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 4225) authorizing the Administrator of Veterans' Affairs to convey certain property of the United States to the city of North Little Rock, Ark., having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

EXPLANATION OF THE BILL

This bill authorizes and directs the Administrator of Veterans' Affairs to convey to the city of North Little Rock, Ark., all right, title, and interest of the United States to a tract of land composing approximately 656 acres. This land constitutes a portion of the reservation of the Veterans' Administration hospital in the above city.

The exact legal description of the land shall be determined by the Administrator of Veterans' Affairs and the deed of conveyance shall provide that the tract shall be used by the city for park purposes and if it shall cease to be so used the title shall revert to the United States. The deed further will reserve to the United States all mineral rights including gas and oil in the land so conveyed.

On February 18, 1893, the Board of Improvement for City Park District of Little Rock, conveyed to the War Department a tract of approximately 1,100 acres in consideration of some 36 acres of land which the United States conveyed to the city of Little Rock.

Under the act of March 4, 1921, the 1,100 acres were transferred to the Public Health Service and Executive Order 3669 transferred to the Veterans' Bureau (predecessor of the Veterans' Administration) certain Public Health Service hospitals including the hospital at North Little Rock. The Veterans' Administration is presently operating on this site a 2,062-bed hospital with a preponderance of neuropsychiatric-type patients.

The Veterans' Administration has no objection to this legislation in its amended form and there would be no additional appropriation required as a result of the enactment of this proposal.

The reports of the Veterans' Administration follow:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington 25, D. C., May 12, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington 25, D. C.

DEAR MR. TEAGUE: This is in reply to your letter requesting a report by the Veterans' Administration relative to H. R. 4225, 84th Congress, a bill authorizing the Administrator of Veterans' Affairs to convey certain property of the United States to the city of North Little Rock, Ark.

The bill proposes to authorize and direct the Administrator of Veterans' Affairs to convey to the city of North Little Rock, Ark., all right, title, and interest of the United States in and to a tract of approximately 434 acres of land, constituting a portion of the reservation of the Veterans' Administration Hospital, North Little Rock, Ark., the exact legal description of which shall be determined by the Administrator. Under the terms of the bill, the deed of conveyance shall (*a*) provide that the tract shall be used by the city of North Little Rock for park purposes and, if it shall cease to be used for such purposes, the title thereto shall revert to the United States which shall have the immediate r ght of reentry thereon, and (*b*) reserve to the United States all mineral rights, including gas and oil, in the land so conveyed.

By deed dated February 18, 1893, the Board of Improvement for City Park District, Little Rock, Ark., conveyed to the then War Department a tract of approximately 1,100 acres of land, in consideration of some 36 acres of land, known as the Arsenal Ground, which the United States conveyed to the city of Little Rock. Pursuant to the act of March 4, 1921 (41 Stat. 1364), the 1,100-acre tract was transferred to the United States Public Health Service, on August 5, 1921. Executive Order No. 3669, promulgated April 29, 1922, transferred to the United States Veterans Bureau (a predecessor agency of the Veterans' Administration) certain Public Health Service hospitals, including the hospital at North Little Rock. The Veterans' Administration is presently operating a 2,062-bed hospital with a preponderance of neuropsychiatric patients on the tract.

Recently, a study of the land requirements at the North Little Rock Hospital was made which resulted in a determination that some 434 acres of the hospital reservation, located in the northerly portion of that reservation, are in excess of the present and foreseeable future requirements of the hospital. However, prior to the actual declaration of this tract to the General Services Administration as excess to our needs, it was determined to give further study to the possibility that there may be certain additional acreage at the North Little Rock installation which may be excess to the present and foreseeable future needs of the hospital. No determination has as yet been made with repseet to that additional acreage.

It is believed that the transfer of the roughly 434-acre tract of land in question to the city of North Little Rock, under the terms and conditions set forth in the bill, and its use for park purposes, would not interfere with the present or prospective operation of the nearby Veterans' Administration hospital. Accordingly, the Veterans' Administration would interpose no objection to the favorable consideration of H. R. 4225.

The Veterans' Administration has not had sufficient time to ascertain from the Bureau of the Budget the relationship of this proposal to the program of the President.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

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JUNE 21, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MR. TEAGUE: This is in reply to the request of June 16, 1955, for the views of the Veterans' Administration with respect to a proposed amendment to H. R. 4225, 84th Congress, deleting the language "four hundred and thirty-four" in line 7, page 1, of the bill and inserting in lieu thereof "six hundred and fifty-six."

H. R. 4225, as introduced, proposes to authorize and direct the Administrator of Veterans' Affairs to convey to the city of North Little Rock, Ark., all right, title, and interest of the United States in and to a tract of approximately 434 acres of land, constituting a portion of the reservation of the Veterans' Administration Hospital, North Little Rock, Ark., the exact legal description of which shall be determined by the Administrator. The conveyance would be subject to conditions set forth in section 2. The proposed amendment would increase, from 434 to 656, the acreage to be conveyed to the city of North Little Rock.

Certain background information with respect to the reservation of the Veterans' Administration hospital at North Little Rock is set forth in the report of this agency on H. R. 4225, to your committee, dated May 12, 1955 (committee print No. 113) That report stated, in part, that a determination had been made that some 434 acres of the hospital reservation, located in the northerly portion of that reservation, are in excess of the present and foreseeable future requirements of the hospital, but that further study was being given to the possibility that there might be certain additional excess acreage at the North Little Rock installation. Subsequent study has revealed that an additional 222 acres of that reservation, contiguous to the mentioned 434 acres, are excess to the present and foreseeable future needs of the hospital.

In accordance with the views expressed in the report of May 12, 1955, the Veterans' Administration would interpose no objection to the favorable consideration of the proposed amendment of H. R. 4225.

Since the submission of the report of May 12, 1955, it has come to my attention that in 1940, the Veterans' Administration granted a permit to the then War Department for the installation of a 16-inch water pipeline across the North Little Rock Reservation. The line, which connects the water system of the city of Little Rock with Camp Joseph T. Robinson, Ark , is located beneath the land with which H. R. 4225 is concerned. At the time of its installation, a connection to the line was made so as to provide a possible future means of securing a water supply for the Veterans' Administration hospital from this line. Accordingly, irrespective of whether H. R. 4225 is amended to increase the acreage from 434 to 656, the bill should be amended so as to (1) permit incorporation in the deed of conveyance of easements necessary to maintain the existing water pipeline and, if necessary, to install and maintain a water pipeline to serve the Veterans' Administration hospital, and (2) meet any contingencies that may arise. This could be accomplished by deleting the word "and" in line 8, page 2, and substituting for the period in line 10, page 2, a comma and "and (3) may contain such additional terms, conditions, reservations, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interests of the United States."

The Veterans' Administration has not had sufficient time to coordinate this report with the Bureau of the Budget pursuant to the Bureau's Circular No. A–19.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

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Calendar No. 844

84TH CONGRESS, 1st Session | SENATE | REPORT No. 836

EXTENSION OF TIME FOR APPLYING FOR MUSTERING-OUT PAYMENTS

JULY 12 (legislative day, JULY 11), 1955.—Ordered to be printed

Mr. LEHMAN, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 5792]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 5792) to amend the Veterans' Readjustment Assistance Act of 1952, to extend the time for filing claims for mustering-out payments, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

Title V of the Veterans' Readjustment Assistance Act of 1952 provides mustering-out payments for veterans of the Korean conflict in amounts of $100, $200, or $300, depending upon the length and type of service of the veteran involved. The act also provides that in order to be eligible for this mustering-out payment application must be made within 2 years after the date of enactment which in effect set the final date for applying as July 16, 1954.

The first payment of mustering-out pay is made in nearly all in stances today at the time that the man is discharged from the service. The other two payments, if he is eligible for that many, are made approximately 30 days apart, after his discharge.

Many veterans of the Korean conflict were discharged before the date of enactment of the Veterans' Readjustment Assistance Act of 1952—July 16, 1952—and thus did not receive their payments at the time of their release from the service.

The purpose of this bill is to provide an opportunity for these Korean conflict veterans to apply for this benefit on or before July 16, 1956. In effect, it is a 2-year extension.

The information received by the committee at the time of the hearing was that there are approximately 3,867 cases involved—

divided among 2,500 in the Army, 200 in the Navy, 267 in the Marine Corps, and 900 in the Air Force. The overall average payment of mustering-out pay is $251, and this is based on a $230 figure for the Navy and Marine Corps, $250 for the Air Force, and $275 for the Army. Because of the amount of the award and the number of veterans involved, it seems unlikely that the cost of this legislation would exceed $900,000.

The report of the Department of Defense and the Veterans' Administration follows:

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, May 16, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request for the views of the Department of Defense on H. R. 4237, a bill to amend section 503 of the Veterans' Readjustment Assistance Act of 1952 to allow certain veterans to file claims for mustering-out payment prior to July 16, 1955, and H. R. 5792, a bill to amend the Veterans' Readjustment Assistance Act of 1952, to extend the time for filing claims for mustering-out payments. The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense on these bills.

The purpose of both of these bills is to extend the time within which veterans may file claims for mustering-out payments under the Veterans' Readjustment Assistance Act of 1952. H. R. 4237 would extend the time for 1 year to July 16, 1955, and H. R. 5792 would extend it for 2 years to July 16, 1956.

The Department of Defense is in accord with the principle embodied in these bills that certain veterans should not be deprived of benefits received by other veterans similarly situated because of the expiration of an arbitrary cutoff date. The Department of the Air Force, therefore, on behalf of the Department of Defense favors the enactment of H. R. 5792 and prefers it to H. R. 4237 because of the longer period provided for in H. R. 5792.

Any additional expenditures within the Department of Defense caused by the enactment of H. R. 5792 or H. R. 4237 can be absorbed within existing appropriations.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

DAVID S. SMITH,
Assistant Secretary of the Air Force.

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., May 10, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington 25, D. C.

DEAR MR. TEAGUE: Reference is made to your request for reports by the Veterans' Administration on H. R. 4237, 84th Congress, a bill to amend section 503 of the Veterans' Readjustment Assistance Act of 1952 to allow certain veterans to file claims for mustering-out payment prior to July 16, 1955, and H. R. 5792, 84th Congress, a bill to amend the Veterans' Readjustment Assistance Act of 1952, to extend the time for filing claims for mustering-out payments.

The purpose of H. R. 4237 is to extend to July 16, 1955, the period during which application for mustering-out payment must be made by members of the Armed Forces entitled to such payment who were discharged or released from active service before July 16, 1952, the effective date of title V of the Veterans' Readjustment Assistance Act of 1952. H. R. 5792 would extend this period for making application in such cases to July 16, 1956. Under existing law it is required that application in such cases must be made within 2 years after July 16, 1952, the date of enactment of title V.

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As the committee is aware, the benefit of mustering-out payments authorized under title V of the Veterans' Readjustment Assistance Act of 1952 is administered by the secretaries of the respective service departments and the Veterans' Administration is charged with no responsibility in connection therewith. Accordingly, this agency defers to those departments with respect to any recommendation on the merits of H. R. 4237 or H. R. 5792.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 503, PUBLIC LAW 550, 82D CONGRESS

TIME LIMITATIONS

SEC. 503. Any member of the Armed Forces entitled to mustering-out payment who shall have been discharged or relieved from active service under honorable conditions before the effective date of this title shall, if application therefor is made [within two years after the date of enactment of this title], *on or before July 16, 1956*, be paid such mustering-out payment by the Department of the Army, Navy, or Air Force, or the Treasury Department, as the case may be, beginning within one month after application has been received and approved by such department. No member of the Armed Forces shall receive mustering-out payment under this title more than once, and such payment shall accrue and the amount thereof shall be computed as of the time of discharge for the purpose of effecting a permanent separation from the service or of ultimate relief from active service or, at the option of such member, for the purpose of enlistment, reenlistment, or appointment in a regular component of the Armed Forces.

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